

Recommendation Report for Planning Permission

REF NO: R/108/21/PL

LOCATION: 117 Sea Lane
Rustington
BN16 2RU

PROPOSAL: Demolition of two dwellings and the construction of 3 No. 3-bed town houses and 5 flats. This site is in CIL Zone 4 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The demolition of two single storey houses and the construction of a three storey building containing 5 flats and 3 x 3 storey town houses in a terrace. The housing mix would be as follows; 2 x 1 bed flats and 3 x 2 bed flats, and 3 x 3 bed townhouses. The proposals include 5 car parking spaces to the front of the apartment building and 2 car parking spaces each in front of 2 of the townhouse and 1 parking space in front of 1 of the townhouses, plus all with an integrated garage. The flats each have a courtyard terrace or balcony and the townhouses each have front and rear gardens. On-site refuse storage provision is shown for all units.

The current proposals have been revised from the original submission, reducing the number of storeys of the apartment building from 4 to 3 storeys and the number of flats from 7 to 5 flats. A Tree Survey Schedule, Tree Removal Plan, Protected Species Walkover and Bat Assessment Report were also submitted to supplement the application.

SITE AREA

0.1 hectares.

RESIDENTIAL DEVELOPMENT DENSITY (NET)

80 dph.

TOPOGRAPHY

Predominantly flat.

TREES

Trees and vegetation on site. None of any significance affected by the proposed development.

BOUNDARY TREATMENT

Timber close board fence panels with concrete posts.

SITE CHARACTERISTICS

The site is comprised of 2 semi-detached bungalows with garden land on a corner plot on the junction between Shaftsbury Road and Sea Lane.

CHARACTER OF LOCALITY

A predominantly residential area of Rustington. Suburban/coastal character.

RELEVANT SITE HISTORY

R/135/99/

New bungalow

Refused
06-08-99

R/208/88

Outline application for proposed site of new house

Refused
05-09-88

REPRESENTATIONS

Rustington Parish Council -

Objection, on following grounds:

- An extreme over-dominant appearance and would have a damaging impact, by reason of their height, shape and mass, on the residential amenities of surrounding properties and the appearance of the street scene (In conflict with Arun District Local Plan Policy D SP1).
- The proposal, which would be higher than that of the adjacent flats and No. 2 Shaftesbury Road, would present an over-bearing and unsympathetic appearance for the occupiers of these properties, in particular, which would result in a loss of privacy by reason of overlooking and would, most certainly, adversely affect the quiet enjoyment of the occupiers of the aforementioned properties.
- The proposal to develop this site by the erection of an additional 10 units of accommodation would constitute an undesirable intensification of residential development, and would most certainly represent a severe, and particularly unwelcome, over-development of the site (In conflict with Arun District Local Plan Policy D DM1).
- The addition of 10 properties, in this vicinity, would place yet further pressure on an already over-loaded sewage and drainage system, which is evidenced by the recurring flooding problems in close proximity to the site during adverse weather conditions, to the detriment of, to its effectiveness and efficiency.
- The proposal, by reason of the number of units proposed, would generate an unacceptable increase in the volume of traffic and associated activity in Shaftesbury Road and Sea Lane, very busy, narrow and regularly congested roads, which would be detrimental to the amenities and quiet enjoyment of the neighbouring properties.
- The formation and use of new accesses to the public highway at this location would add to the hazards of highway users to an intolerable degree and, in the absence of major improvements to the highway infrastructure to cater for the increase in traffic generated by the proposal, traffic conditions on the existing road network, in close proximity to an already congested road junction, would be materially worsened. Danger of turning onto Shaftesbury Road.
- The proposed development would attract additional standing vehicles on the already extremely congested Shaftesbury Road, which would, most certainly compromise access by emergency vehicles, and would add to the hazards of highway users at this point.
- The proposal does not comply with the local Planning Authority's Parking Standards 2020, which suggests that two parking spaces should be considered for each of the town houses, separate spaces for the flats, with visitors' parking to the value of 20% of the number of residential units which would amount to two extra spaces. One dedicated space should also be provided for electric vehicle charging.
- The proposal is in conflict with the Rustington Neighbourhood Plan (Policy 2: Housing Design) on many counts.
- The design of the flats with a flat roof is totally out of keeping architecturally with all of the other properties in the immediate area which have pitched roofs.
- This type of development would, if approved, make it increasingly more difficult for the local Planning Authority to resist similar proposals in this vicinity, the cumulative effect of which would be to completely alter the character of the locality to the serious detriment of the amenities of the area.
- The removal of the mature and healthy trees from the site, with only a very minimal replacement

landscaping scheme of 'shrubs planting' proposed, would be detrimental to not only its aesthetic appearance, but also the street scene, and would most certainly have an adverse environmental impact overall.

71 letters of objection citing the following grounds;

- Problems with on street parking on Sea Lane.
- Insufficient parking provided on site.
- Height of town houses will create problems with privacy.
- Garden has an established bird/starling colony which would be affected by the development.
- Out of character with existing area.
- Over dominate surrounding properties due to height, shape and mass.
- Cause a loss of light to properties opposite.
- Removal of trees would be unacceptable.
- Flat roof design contrary to pitched roof design of existing houses surrounding.
- Previous applications for development refused on grounds of lack of space for development.
- Three storey town houses too high when only two storey properties in the vicinity.
- Contrary to Rustington Neighbourhood Plan.
- Use of cheap materials unacceptable.
- Overlooking of 115 Sea Lane.
- Loss of light to and overlooking of properties on Shaftsbury Road.
- Concern that garages will be converted into residential use.
- Danger at road junction of access.

In addition, the following representations have been received in respect of the revised scheme:

Rustington Parish Council -
Objection.

- Still presents extreme over-dominant appearance and by reason of shape and mass would still have damaging impact on residential amenity of close neighbouring properties and on appearance of street scene.
- Taller than no.2 Shaftsbury Road, overbearing, unsympathetic appearance, loss of privacy from overlooking.
- 8 units on the site, severe over-development of site, intensification of residential use.
- Further pressure on over-loaded drainage and sewage system. Flooding issues in area.
- Unacceptable increase in traffic at busy congested junction, detrimental to amenity of neighbouring properties, highways safety concerns and compromises access by emergency vehicles.
- Does not comply with ADC's Parking standards. Loss of local parking amenity for existing residents.
- In conflict with Rustington Neighbourhood Plan policy 2 in terms of scale, density, massing, height, layout, materials and landscape design.
- Proposed flat roof to apartment building entirely out of keeping with all other buildings in immediate area which have pitched roofs.
- Precedence, cumulative effect would be harmful to character of area.
- Removal of trees and ecology from site, harmful to appearance and environment.

39 letters of objection, concerns summarised as:

- Still oversized, scale, mass.
- Despite reduction in height, still too high at 3 storeys. Still 1 storey too high as 2 storeys is the height in the area.
- Properties in Abbottswood Walk are not 2.5 storeys as claimed by the applicant, are 2 storeys with loft conversion.
- Still overdevelopment of plot. Cramped. In 1988 and 1999 proposals for 1 new dwelling on site were rejected due to overdevelopment.

- Black windows frames out of character.
- Will change and harm the skyline.
- Appearance of new building entirely out of keeping with area.
- Fails to comply with all points of Policy 2 of the Rustington Neighbourhood Plan, and in particular its flat roof form fails to reflect pitched roof forms in area and fails to complement surrounding historic character (opposite Blue Plaque house).
- Out of character with immediate area and Rustington which is not urban but a village, does not reflect character of Character Area 8, scheme is contrary to Village Design Statement.
- Contrary to ADC Design Guide SPD.
- Still insufficient parking provision including for visitors on site.
- Garages not large enough for townhouses.
- Existing traffic and parking problems in immediate area.
- Highways safety concerns for pedestrians crossing and road users.
- WSCC do not object but viewed the site in spring 2021 when in lockdown and in the evening when traffic is quieter as no vans and only on one day. This is not adequate. It is essential better monitoring by WSCC is done.
- Photo evidence provided to show no spare parking capacity on streets.
- Entrance on Site Plan appears to have been changed but no new sight line diagrams have been provided.
- Concerns about access for emergency vehicles.
- Drainage/sewage capacity issues.
- Loss of trees and local wildlife. Inadequate mitigation planting.
- Disruption during construction.
- Concerns about security to neighbouring properties from building site and new car park/walkways.
- Overlooking towards Rawson Court bungalows, invasion of privacy. Overlooking towards 2 Abbottswood Walk. Overlooking towards garden of 115 Sea Lane.
- Block a lot of natural light. Loss of sunlight/daylight to front and rear of no.2 Shaftsbury Road.
- Noise level increase in what is currently a quiet peaceful location.
- Questions if wind conditions/impacts have been taken account in scheme especially in respect of the corner balconies on this exposed site.
- Crammed homes, poor quality accommodation for occupants.
- Local infrastructure issues e.g. doctors surgeries already at capacity.
- Plans have been scaled down, and not for the better.
- Objections to previous plans still apply to revised plans.
- Issues with inaccuracy of plans and claims in Planning Statement.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted and addressed in Conclusions section of report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC Landscape/Greenspace -

Comments on original scheme (14/07/2021)

Advise that the proposals would result in significant impact on the existing street scene, landscape mitigation would be required, which may not be sufficient to blend the proposals into this location. Recommendation would be of caution until suitable green infrastructure to mitigate and soften the proposals could be demonstrated.

Comments on revised scheme (14/12/2021)

Suggest that there would still be considerable impact on the street scene with these proposals. No significant landscape mitigation proposals has been submitted. The proposals would still appear to suggest overdevelopment visually of the plot. Conclusions as before apply.

ADC Environmental Health -

No objection.

Recommend conditions.

WSCC Highways -

Comments on original scheme (18/06/2021)

Comments on revised scheme (30/11/2021)

No objection.

Recommend conditions to secure cycle parking, electric vehicle charging provision and Construction Management Plan.

WSCC Flood Authority -

Objection.

Further clarification, with regards to how this site is currently drained and the proposed future drainage arrangements, is required.

ADC Drainage Engineer -

Objection.

The hierarchy for sustainable drainage must be followed, therefore infiltration must be prioritised above discharging to a watercourse or a sewer. However, is it unclear if there is enough space on the site to support infiltration features (5m from buildings and highway, 2.5m from property boundaries).

If recommending approval, advise apply planning conditions to secure surface water drainage scheme and maintenance and management manual.

ADC Tree Officer -

No objection.

Ecology Officer -

No objection.

Recommend conditions re. bats, wild nesting birds, hedgehogs and further information re. Biodiversity Net Gain.

COMMENTS ON CONSULTATION RESPONSES:

Noted and addressed in Conclusions section of report.

POLICY CONTEXT

Designation applicable to site:

Built-Up Area Boundary

CIL Zone 4

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
DDM2	D DM2 Internal space standards

ENVDM5	ENV DM5 Development and biodiversity
TSP1	T SP1 Transport and Development
TDM1	T DM1 Sustainable Travel and Public Rights of Way
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
QEDM1	QE DM1 Noise Pollution
QEDM2	QE DM2 Light pollution
QEDM3	QE DM3 Air Pollution
QESP1	QE SP1 Quality of the Environment
WMDM1	WM DM1 Waste Management
ENVDM4	ENV DM4 Protection of trees
ENVSP1	ENV SP1 Natural Environment

Rustington Neighbourhood Plan 2014 Policy 2	Housing Design
Rustington Neighbourhood Plan 2014 Policy 4	Sustainable Drainage

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Policy 2 & 4 of the Rustington Neighbourhood Plan are relevant to this application.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -
 (a) the provisions of the development plan, so far as material to the application,
 (aza) a post examination draft neighbourhood development plan, so far as material to the application,

- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

The proposal is not considered to comply with relevant Development Plan policies in that the scale of the development would be out of character with the surrounding locality, would provide poor quality accommodation for future occupants, and would have an unacceptable impact on residential amenities.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to be weighed in the balance with the Development Plan. The other material consideration is the Council's current lack of a 5 year housing land supply, which means in the case of applications for housing provision, where development is sustainable, the National Planning Policy Framework's 'presumption in favour of sustainable development' is engaged. The impact of the proposals and any adverse impacts must therefore be assessed against the 'presumption in favour' in the tilted balance.

CONCLUSIONS

KEY ISSUES:

The key issues in the determination of this application are as follows:

- Impact on visual amenity & character of area.
- Impact on neighbouring residential amenity.
- Quality of new living accommodation.
- Site access, parking provision and impact on highways.

Other matters of consideration are; principle, drainage, and impact on trees and ecology.

PRINCIPLE OF DEVELOPMENT:

The proposals seek planning permission for 8 new homes within the Built-Up Area Boundary (BUAB). This accords with Arun Local Plan (ALP) policy SD SP2 which seeks to focus new development within the BUABs. The proposed development is therefore acceptable in principle in this location, and would be considered to represent 'sustainable development'.

DESIGN, VISUAL AMENITY AND CHARACTER:

Para 124 of the National Planning Policy Framework (NPPF) 2021 states that planning decisions "should support development that makes efficient use of land, taking into account..." amongst other things "(d) the desirability of maintaining an area's prevailing character and setting (including residential gardens)". Para 130 requires that applications for developments (b) are visually attractive as a result of good architecture and (c) are sympathetic to local character and history, including the surrounding built environment. Para 134 states "Development that is not well designed should be refused".

Policy D SP1 of the ALP states development should seek to make efficient use of land but reflect the characteristics of the site and local area. ALP policy D DM1 looks at aspects of form and design quality, including; character, appearance, density, scale, innovation, adaptability, residential amenity impact, trees and crime prevention. New buildings should be harmonious with their surroundings and successfully integrate with the surrounding environment.

Arun District Council Design Guide SPD (2021) provides detailed design guidance for developments in

the District. This includes Section P.01 on Infill Development which provides detailed guidance on Site Redevelopment which involves the re-development of a site with existing building/s generally with intensifying the use of the site. The guidance states "intensification must not result in cramming" and should maintain "the scale, alignment, building patterns, and location character" and "Higher densities must not result in a loss of amenity for existing residents".

Policy 2 of the Rustington Neighbourhood Development Plan states that development proposals will be supported providing that their scale, density, massing, height, landscape design, layout and materials reflect and enhance the established character of the area.

The proposals would replace two existing semi-detached bungalows with an apartment building of 5 flats and three 3 storey townhouses. As such, it would represent site re-development and would result in an intensification and higher density development than existing. It would make an efficient use of existing brownfield land and would contribute to the District's housing supply. The site is located in Character Area 8 of the Rustington Village Design Statement, which is characterised by bungalows, semi-detached and terraced housing, and a mix of high and low density. It is noted that there is other flatted development in the vicinity of the site, at Rawson Court and further away at Millfield Close. There is also terraced housing in evidence nearby e.g. 1-15 Shaftsbury Road. As such, the proposal for a block of flats and terrace of three townhouses is acceptable in principle in terms of building typology and density. The apartment building footprint would be a similar depth to Rawson Court adjacent, the footprint of the townhouses and plots similar to other terraces nearby, and the footprint of the apartment block and townhouses would not in itself represent overdevelopment of the site or 'cramped' development and would reflect the layout of development in the area. In addition, the proposed building line of the apartment block and the townhouses is similar to that of the adjacent properties on Sea Lane and Shaftsbury Road so reflects the pattern of development in the area in this respect.

The proposed three storey height of the apartment building would (according to the street elevations submitted) have the same ridge height of Rawson Court adjacent. However, Rawson Court has a pitched roof and only 2 storeys, whereas the apartment building would have 3 full storeys and a flat roof, which would increase its overall mass and bulk in comparison to the adjacent Rawson Court. All other buildings in the immediate vicinity of the site are either single storey or 2 storeys (some with roof level accommodation) and none are a full 3 storeys with flat roof as is proposed in this scheme. It is acknowledged there are the blocks at Millfield Close which are 4 storeys but these are some distance from the site down by the seashore and do not form part of the immediate street scene around the site. The proposed height of the townhouses would be acceptable since these would be 2 full storeys with pitched roof and dormers providing roof level accommodation, which would broadly reflect the height and roof form of other buildings in the immediate area.

The flat roof of the proposed apartment building would not reflect the traditional pitched roof of buildings in the immediate area. This is not in and of itself considered to be harmful. There are other examples of flat roofed buildings in the wider area (at no.123 Sea Lane and the Millfield Close blocks). Furthermore, there is not in principle objection to an innovative or contemporary design approach being taken in site re-developments. Whilst the development is of a modern appearance there are developments towards the southern end of Sea Lane which are of a similar design i.e. flat roofed/post-war. This aspect of the proposal would be acceptable, likely subject to a planning condition to secure details of the materials and finishes to ensure high quality in this regard.

However, the combination of the full 3 storey height and the flat roof design would result in the apartment building having a mass and bulk which would appear out of scale with other buildings in the immediate area and overly dominant and overbearing in relation to other buildings in its context. Being a corner plot, and with all the existing green buffer removed, the new building would be highly visible and would appear visually prominent within the street scene to the detriment of the appearance of the locality. The

Council's Landscape Officer has raised concerns that the proposals would result in a significant impact on the existing street scene and that landscape mitigation would be required but that this may not be sufficient to blend the proposals into this location. The Officer has re-iterated these comments and confirmed they still apply in respect of the revised scheme.

In conclusion, by reason of its height, roof form, scale, mass and bulk, the proposed apartment building would appear out of scale with surrounding development, overly dominant within the street scene and would fail to integrate and blend harmoniously with its surroundings. Given its corner plot location and lack of visual buffer/screening, the new building would be highly visible and visually prominent to the detriment of the street scene. The proposals would therefore conflict with the NPPF, policies D SP1 and D DM1 of the Arun Local Plan, Policy 2 of the Rustington Neighbourhood Plan and Part P.01 of the Arun Design Council Design Guide SPD.

RESIDENTIAL AMENITY:

Para 130 (f) of the NPPF states development should have a high standard of amenity for existing and future users.

Policy D DM1 of the ALP states new development will have minimal impact to users and occupiers of nearby property and land, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance. QE SP1 states the Council requires development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity. Policies QE DM1, QE DM2, QE DM3 and QE DM4 relate to noise, light, air and land pollution and the need for impacts from development to be controlled.

The ADC Design SPD includes detailed guidance on the protection of residential amenity, including setting out the required distances between properties to accord with the 45 and 25 degree tests for daylight/sunlight (Section G.03), required separation distances between habitable rooms to ensure privacy (Section H.04), measures to maintain privacy (Section J.02) and minimisation of impacts of noise and overshadowing (Section J.06). The recommended separation distances include; 16m front to front between habitable rooms of properties facing each other, 14m back/front to side between habitable rooms, and 21m back to back between habitable rooms or to existing buildings.

The relationship of the block of flats to 115 Sea Lane on the opposite corner is considered to be acceptable at 21 metres distance between facing windows. There would be a distance of around 20m from the new block of flats to no.3 Shaftsbury Road. The new terrace houses would be located between 20-21m distance from nos. 5 and 7 Shaftsbury Road and nos. 1 and 2 Abbottswood Walk. These distances would comply with or exceed the ADC Design SPD minimum separation distances and demonstrates that there would be no materially significant overlooking impact on these neighbouring occupants. These separation distances and the proposed height of the block of flats and terraces also indicates that there would be no significant overbearing or overshadowing to these neighbouring properties.

In respect of Rawson Court, the new block of flats would be located around 2m from the side elevation of this adjacent property. However, Rawson Court does not have any side facing windows or rooflights to that elevation, and the main part of the new block of flats closest would not project forward or rearward of Rawson Court. As such, the new block of flats would have no significant overbearing or overshadowing impact and no overlooking impact on the occupants at Rawson Court. The closest first floor rear windows of the nearest new townhouse would be located around 12m from the closest rear windows of Rawson Court. Albeit this would be at an acute/oblique angle to some degree. But nevertheless, this separation distance would fail to comply with the recommended 21m separation distance back to back between habitable rooms or to existing buildings, and could provide some direct angles of view and thus has the

potential to provide clear views to the closest rear windows at Rawson Court. Since these new windows would serve a bedroom i.e. habitable room they could not be conditioned to be obscure-glazed or fixed shut up to a height of 1.7m to avoid overlooking. As such, the proposals could lead to a degree of inter-visibility and overlooking towards Rawson Court which would be unacceptable. In terms of the two bungalows at the rear of Rawson Court (nos. 1 and 2) the new apartment block would be located around 16m from the front of these bungalows, and the new terrace houses around 19m. The new development is to the north of the bungalows. As such, whilst there would be an increase in building footprint and height to the north of these bungalows, given the separation distance between the buildings, the height of the new development and its orientation in relation to the bungalows, this is not considered to result in materially significant harmful overshadowing nor overbearing to these bungalows. There is no separation distance standard in the ADC Design SPD for back-to-front relationships but it does state that there should be a minimum depth of 12m between back elevations to the boundary. These distances between the new block of flats/townhouses and the Rawson Court bungalows at 16m and 19m would exceed this standard for back to boundary distances and also the front/back to side (14m) and front to front (16m) minimum distances. As such, it is concluded the proposals would not result in significant overlooking to these bungalows.

In regard to no.2 Shaftsbury Road, the new block of flats would be located around 26m from its side boundary. The rear facing first and second floor windows to the new block would be high level so would not allow any views rearward. As such, the new block would have no significant overbearing or overshadowing impact and no overlooking impact to no.2 Shaftsbury Road. The end townhouse would be located directly adjacent to the side boundary with no. 2. It would be a similar depth to no.2 and would not project rearward beyond the rear building line of no.2. This adjacent property no.2 appears to have a ground floor side facing window which would face toward the adjacent new townhouse. However, this window does not appear to be the primary/sole opening to a habitable room. As such, given this and that the new townhouse would not project rearward of no.2, and the height of the townhouses being similar to the properties the other side of no.2, it is concluded that the townhouses would not have a significant overbearing or overshadowing impact on the windows or garden of no.2. In terms of overlooking, the first floor rear windows of the townhouses would be located close to no.2 and could provide views down into the garden at no.2. However, these windows would provide oblique angles of view rather than direct views and this relationship is similar to the views that can already be achieved from the rear first floor windows at Sumburgh Lodge and no. 4 Shaftsbury Road into the garden of no.2. As such, it is considered there would not be a materially significant harmful increase in overlooking to the garden of no.2 than the existing situation.

In terms of the impact of the new block of flats on the new townhouses and their rear gardens, the first and second floor rear (eastern) facing windows to the new block would only be located around 3.5m distance from the side boundary/rear garden of the nearest townhouse, and around 7-8m from the rear windows of the nearest townhouse. However, these windows to the new block of flats would be high level and thus would not give rise to overlooking towards the townhouses or their rear gardens. The rear/side (southern) facing first and second floor windows to the new block would not be high level windows, would serve habitable rooms and would be located within close proximity to the side boundary with the adjacent townhouse. However, this type of relationship between neighbouring upper floor rear windows and adjacent gardens is a typical relationship, the windows to the block would only provide oblique angles of view rather than direct angles of view, and it is not considered to result in unacceptable overlooking to these townhouse gardens. The block of flats would be set back from the boundary to the townhouses and would not result in significant overbearing or overshadowing.

In conclusion, the proposals are not considered to result in significant overbearing, overshadowing or overlooking impacts to no.115 Sea Lane, nos. 2, 3, 5 and 7 Shaftsbury Rd, nos. 1 and 2 Abbottswood Walk and nos. 1 and 2 Rawson Court bungalows. In this way, the proposals would maintain acceptable levels of outlook, light and privacy for these neighbouring occupants. The new block of flats would have

an acceptable impact on the outlook, light and privacy levels of the new townhouses and gardens and vice versa. However, the proposals would fail to comply with minimum recommended separation distances between habitable room windows as set out in the ADC Design SPD in respect of the upper floor windows of the new townhouses toward the rear windows at Rawson Court. This would result in a degree of inter-visibility and unacceptable overlooking towards Rawson Court. As such, the proposals would fail to protect residential amenity, contrary to the NPPF, policies D DM1 and QE SP1 of the Arun Local Plan and the ADC Design SPD.

QUALITY OF NEW ACCOMMODATION:

Policy D DM2 of the Arun Local Plan requires internal spaces to be an appropriate size to meet the requirements of all occupants and their changing needs. Section J.08 of the ADC Design Guide SPD reiterates the need to comply with the national internal space standards. The Nationally Described Space Standards provide the current guidance for dictating minimum space standards.

The flats would seem to comply with the national internal space standards in terms of Gross Internal Area (GIA) and storage etc. The 3 bed 5 person 3 storey townhouses, according to the standards, should have a minimum GIA of 99sqm. However, they would appear to have a GIA of around 85sqm (excluding the integrated garage) and 96sqm (including the integrated garage). GIA is thought to exclude garage space since this does not form part of the habitable accommodation floor area. In any event, the GIA falls short of the minimum internal space standards. In addition, since no sections have been provided showing floor to ceiling heights, it is unclear which parts of the roof level accommodation are 900-1500mm or 1500mm in height, which impacts the % of floor area counted in the GIA. As such, there has been a failure to demonstrate that the proposed townhouses would comply with the national internal space standards, or provide adequately sized living accommodation for future occupants. The proposals are therefore contrary to the Nationally Described Space Standards, policy D DM2 of the Arun Local Plan and the ADC Design SPD.

There are no specific policies in the Arun Local Plan with regard to external amenity space. Section H.04 of the Arun Design SPD advises that outdoor amenity spaces should be of an appropriate size and shape and be usable and enjoyable for occupants. It suggests the following quantum of outdoor amenity space is suitable:

- Private rear gardens should have a minimum depth of 10.5 metres.
- Balconies should have a minimum of 3sqm of usable space.

The ground floor flats both have outside terraces, the first floor flats have 1 balcony each, and the second floor flat has 2 balconies. The ground floor terraces to Flats 1 and 2 are a suitable size, as is the first floor balcony to Flat 4 (4.7sqm) and second floor balconies to Flat 5 (8sqm and 6sqm). However, the first floor balcony to Flat 3 is only 2.4sqm in total so would fail to comply with the minimum 3sqm usable space in the ADC Design SPD. As such, this balcony would be under-sized and this flat would not be provided with adequate private outdoor amenity space.

The rear gardens of the townhouses would have a depth of 7.2m, which is under the 10.5m minimum depth for private rear gardens as set out in the ADC Design SPD. That being said, the gardens would have a decent width at 7.7m and provide an appropriate shape (square) and size, providing a patio and lawned area, to be usable and enjoyable for occupants of the new houses. The size of the gardens are similar to others at some other properties along Shaftsbury Road and in the vicinity. In addition, the site is in close proximity to the seafront where there is an abundance of public amenity space. As such, on balance, the rear gardens to the townhouses are considered to provide an acceptable level of private amenity space for these occupants.

Policy WM DM1 of the Arun Local Plan requires new residential development to ensure that kerbside

collection is possible for municipal waste vehicles and bin storage provision is made as follows:- Each unit should be provided with the equivalent of 240 litres of residual waste storage/bins. The same amount of storage space/bins for recyclable materials is required to be provided. It is recommended that any waste storage provision is located near or adjacent to the highway, so that the maximum refuse pulling distances and refuse vehicles access requirements are complied with. Section H.07 of the Design SPD, requires that attractive bin storage (providing screening for bins) should be integrated into the design of new housing.

The Site Plan shows the provision of 2 bins per flat and per townhouse. A planning condition could be used to secure this bin provision as refuse and recycling storage and secure details of any bin storage enclosures. Subject to this, the proposals would accord with policy WM DM1 of the Arun Local Plan and the ADC Design SPD.

In conclusion, the proposed townhouses would fail to comply with the national internal space standards and not provide appropriately sized living accommodation, and Flat 3 would fail to comply with the minimum balcony size in the ADC Design SPD. As such, the proposals would fail to comply with national standards, policy D DM2 of the Arun Local Plan, and the ADC Design SPD.

SITE ACCESS, PARKING AND HIGHWAYS:

Para.110 of the NPPF states in assessing specific applications for development it should be ensured that (b) safe and suitable access to the site can be achieved for all users. Para. 111 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy T SP1 of the Arun Local Plan requires development proposals to provide safe access on to the highway network and to incorporate appropriate levels of parking in line with adopted planning policies. ALP policy T DM1 requires development to make provision for facilities for sustainable modes of transport such as cycling, to meet the parking standards, including cycle storage. The ADC Design SPD (Sections I.01, I.02 and I.03) includes guidance on the provision and design of car parking, electric vehicle bays and charging points, and cycle parking. The ADC Parking SPD (2020) provides standards for car and cycle parking etc. on site.

The Local Highways Authority (LHA), WSCC have provided comments on the revised scheme, summarised as follows;

In terms of site access, the existing dwelling with driveway parking on Shaftsbury Road would be replaced with a block of flats with dropped kerb/access and a parking court to the front on Sea Lane and dropped kerb/access and driveway parking in front of the townhouses on Shaftsbury Road. Visibility Splays Plan S303, shows that both proposed access points into the development can provide the standard visibility splay requirements for a 30mph road. This is 2.4m x 43m in both directions as per Manual for Streets guidance. In terms of off-site works, the development only requires some minor highway improvements in the form of dropped kerbs, and the re-location of the lamp post. These can be progressed via a S278 with WSCC. The re-location of the telegraph pole (no 15) may need a license or approval from the Street Lighting team at WSCC. Any costs associated with off-site works will be absorbed by the applicant.

In terms of trip generation, this development will create an intensification in use of the site, however, the LHA are mindful the nature of the increase is still relatively low. To demonstrate this, WSCC has used the TRICS database, which provides trip generation forecasting for both residential and non-residential developments, to identify the increased level of trips which are expected. This type of mixed

development (based on original submission) could attract in the region of 15 trips in the morning and evening peak hours. Which equates to 1 vehicle movement every 4 minutes in the peak hours. As such, WSCC would not consider this development to create any material highway capacity impacts. The LHA have provided updated comments on the revised submission, confirming that as this proposal is a reduction in dwellings over the previous submission WSCC do not consider there to be any material highway capacity impacts associated with this revision.

In respect of car parking, the proposals include the provision of 10 car parking spaces on site in total (5 in the car parking court for the flats and 5 driveway spaces in front of the townhouses). The integrated garages in the townhouses are 2m wide x 5m length which does not meet the minimum garage size of 3m x 6m to accommodate a vehicle, as in Manual for Streets. The proposal would result in an overall net increase in 7 dwellings. According to the WSCC parking standards this would generate a demand for 12 car parking spaces. According to the ADC Parking SPD the 8 dwellings in Parking Behaviour Zone 4 would generate a requirement for a minimum of 11 car parking spaces on site (1 space per 1 and 2 bed flat and 2 spaces per 3 bed townhouse). There would also be a requirement for visitor parking at a ratio of 20% of the total number of residential units; so 1.6 spaces. Rounding up, there would be a total requirement for 13 car parking spaces (inclusive of visitor parking) to serve this development. The development proposes 10 on-site car parking spaces so there would be a shortfall of 3 parking spaces, according to the parking standards. The LHA have confirmed that assuming the development may demand an additional 3 parking spaces, a review of on-street parking has been undertaken, and the overspill of 3 cars having to park on the local highway is not considered to cause a highways safety issue.

In response to local concerns over parking, a site visit was undertaken by a WSCC Transport Planning Officer on the evening of Wednesday 16th June. As suspected, there were very few spaces on Shaftesbury Road, 3 were counted, but there were sufficient spaces free on Sea Lane. It is concluded there would be opportunities for any parking shortfall to be met on-street on Sea Lane, and an additional 3 cars would not create a severe impact from a highway safety point of view. However, the LPA may wish to offer their own views from an amenity perspective.

During the site visit the existing waiting restrictions were reviewed and these were acceptable for the location. The location of the access into the car park for the flats was considered a benefit for keeping visibility clear at the junction of Shaftesbury Road, and the only off-site works which will be required is the re-location of the existing telegraph pole. An interrogation of the WSCC traffic monitoring database was undertaken and no traffic surveys have been undertaken within this area, and it is not something the LHA would ask for given the small nature of the development.

The LHA confirm that, according to the ADC Parking SPD, there would be a cycle parking requirement for a total of 11 spaces on-site (1 space per flat and 2 spaces per townhouse). In addition, according the ADC Parking SPD, 20% of the total parking spaces to the flats and 100% of parking spaces to the townhouses would need to provide electric vehicle charging point (EVCP) provision. The LHA also require a full Construction and Demolition Management Plan to manage construction traffic impacts.

The LHA conclude that the proposals would have an acceptable impact on highways safety, capacity and operation and recommend planning conditions to secure the cycle parking, EVCP provision and a CMP.

In respect of on-site car parking, the LPA consider that the under-provision of 3 car parking spaces on-site would not result in a significant parking amenity issue, given that there are no on-street parking restrictions on Sea Lane, that the LHA did a site visit and parking survey and noted Sea Lane as unrestricted and clear.

In conclusion, the proposals would provide suitable and safe site access, have an acceptable impact on

the operation and safety of the highway network, and on balance would provide adequate parking provision, subject to conditions. The proposals would therefore accord with the NPPF and policies T SP1 and T DM1 of the Arun Local Plan.

FLOODING & DRAINAGE:

ALP policy W DM2 sets out the requirements for development in areas at risk of flooding, including; the need for the sequential test, an FRA, adaptation and mitigation measures, flood warning and evacuation plans and site drainage plans. ALP policy W DM3 states that all development must identify opportunities to incorporate a range of Sustainable Urban Drainage (SUDs) systems. The ADC Design Guide SPD (Section K.04) requires that development incorporate Sustainable Drainage Systems (SUDs) and flood risk mitigation. Policy 4 of the Rustington Neighbourhood Plan states that "Development proposals likely to affect surface water drainage will be supported, provided they are able to demonstrate that they include one or more of the following sustainable drainage design features".

The site is in Flood Zone 1 (lowest risk of flooding) and the plot is smaller than 1 hectare. As such, a Flood Risk Assessment nor flood mitigation measures are required. The site is not in any other special drainage designation.

The Lead Local Flood Authority (WSCC) have commented summarised as follows;

No FRA or Drainage Strategy has been included with this application. The Application Form states that an 'Existing water course' would be used to control the surface water runoff from the site. This appears to contradict the previous answer on the Application Form which states that the site is not within 20m of a watercourse. Further clarification, with regards to how this site is currently drained and the proposed future drainage arrangements, is required.

The Council's Drainage Engineer has provided comments summarised as follows;

Lodging a holding objection to the application. The hierarchy for sustainable drainage must be followed, therefore infiltration must be prioritised above discharging to a watercourse or a sewer. However, is it unclear if there is enough space on the site to support infiltration features (5m from buildings and highway, 2.5m from property boundaries). Having insufficient space is an unacceptable excuse for not following the hierarchy, particularly as there is no surface water sewer in the vicinity of the site and all connections of surface water to the foul sewer are opposed to. To overcome the objection, the applicant should complete winter groundwater monitoring and winter infiltration testing and complete calculations to assess the size of structures required. A rough plan should be formed showing where these structures can be provided within the proposed layout. If the applicant has evidence that infiltration will not be viable on the site this should be supplied and a basic attenuation design with an appropriate outfall location should be supplied.

However, if the LPA are minded to grant approval of the application, request planning conditions to secure a surface water drainage scheme, and a maintenance and management manual of the surface water drainage scheme.

Southern Water were not consulted but it is expected the standard advisory informatives would apply i.e. a formal application would be required to be made to SW by the developer in order to connect to the public sewer etc. In addition, a Foul Water Drainage Strategy could be secured by a planning condition.

In conclusion, whilst no surface water drainage scheme has been provided upfront with the application, this information could be secured by planning condition, along with an appropriate maintenance and management manual and a foul water drainage scheme. As such, the proposals would be adequately

drained, not result in increased flood risk elsewhere and incorporate SUDs, in accordance with the NPPF, policies W DM2 and W DM3 of the Arun Local Plan and policy 4 of the Rustington Neighbourhood Plan.

TREES:

ALP policy ENV DM4 seeks to protect trees with TPOs, identified as Ancient Woodland, in Conservation Areas, or that contribute to local amenity.

It is noted that part of the site is a rear garden where there are trees and bushes present.

A Tree Survey Schedule and Tree Removal Plan has been submitted along with the revised scheme during the course of the determination period on the application.

The Council's Tree Officer has provided comments summarised as follows;

Typically for a full application an Arboricultural Impact Assessment and Tree Constraints Plan would be required. On this occasion, neither is required as all on-site trees are to be removed and there are none off-site which overlap the development. The entire tree population affected by this proposal are rated either as low quality or undesirable in a planning context and an eclectic mixture dominated by exotic species with no suitable candidate for a Tree Preservation Order. Trees of low quality and landscape value are to be removed. Although this will have an impact on visual amenity for the immediate locality, none are of sufficient merit to justify the making of a Tree Preservation Order and thereby strongly influence any development proposal. As such, the Tree Officer concludes they see no reason to object to this proposal on arboricultural grounds.

In conclusion, the proposals would have an acceptable impact on trees, and would accord with policy ENV DM4 of the Arun Local Plan.

BIODIVERSITY:

In terms of legislation, development will need to avoid impacts on legally protected species, and where this is not possible, mitigation or compensation will be necessary and a Licence from Natural England may be required. Paras 174 and 180 of the NPPF indicates that developments should aim to protect or enhance, minimise impacts, and provide net gains to biodiversity. Net Biodiversity Gain is an important aspect of the Environment Act and the NPPF. ALP policy ENV DM5 states development shall seek to achieve a net gain in biodiversity and protect existing habitats on site.

It is noted that part of the site is a rear garden where there are trees and bushes present which has potential to accommodate habitats and wildlife.

A Protected Species Walkover and Bat Assessment Report has been submitted along with the revised scheme during the course of the determination period on the application.

The Council's Ecology Officer has provided comments summarised as follows;

In respect in bats, as detailed within the Protected Species Walkover and Bat Assessment (Nov 2021), a precautionary approach should be undertaken (as per Sections 7 and 8 of the report) and following an inspection by an ecologist prior to works commencing, removal of the roof tiles should be undertaken by hand in the presence of a suitably qualified ecologist. If a bat is found all works must stop and Natural England consulted. The lighting scheme for the site will need to take into consideration the presence of bats in the local area and the scheme should minimise potential impacts to any bats using the trees,

hedgerows and buildings by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. Guidance outlined in the new Bats and Lighting Publication produced by the Institution of Lighting Professionals and the Bat Conservation Trust "Guidance Note 08/18 Bats and artificial lighting in the UK Bats and the Built Environment series publication should be adopted into the site plans.

Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work). Would like a bird box to be installed on the extension / and or tree within the garden of the property.

As detailed within the Protected Species Walkover and Bat Assessment (Nov 2021) precautions should be put in place for hedgehogs and the site will need to be searched carefully by an ecologist before works begin. If any small mammals including hedgehogs are found they should be relocated away from the construction area into surrounding suitable habitats. Provisions should also be made for hedgehogs and other small mammals during and after construction, such as: including gaps at the bottom of the fences to allow movement of small mammals across the site, and installing hedgehog nesting boxes included on the site.

In line with Policy ENV DM5 of the Arun District Local Plan information, on Biodiversity Net Gain needs to be provided as part of the planning application prior to determination. Though some biodiversity enhancements have been recommended within the Protected Species Walkover and Bat Assessment (Nov 2021) further information is required demonstrating what will be included within the scheme.

Given that biodiversity net gain measures could be secured by planning condition, then subject to appropriate planning conditions to ensure an acceptable impact on wildlife and protected species and that a net gain in biodiversity achieved, the proposals would accord with the Environment Act and policy ENV DM5 of the Arun Local Plan.

SUMMARY:

The proposals, as set out in the proceeding sections of this report, would have a harmful impact on the visual amenity and character of the area, the residential amenity of some neighbouring occupants and would provide poor quality accommodation for future occupants in respect of internal and external space. The proposals would therefore conflict with the NPPF, policies D SP1, D DM1, QE SP1 and D DM2 of the Arun Local Plan, policy 2 of the Rustington Neighbourhood Plan, and the ADC Design Guide SPD.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
 - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.

It is considered that there is another material consideration to be weighed in the balance with the

Development Plan, in the form of the Council's current lack of a 5 year housing land supply. This means in the case of applications for housing provision (such is the case here), where development is sustainable (such is the case here), the National Planning Policy Framework's 'presumption in favour of sustainable development' is engaged. The impact of the proposals and the conflict with Development Plan policies must therefore be assessed against the 'presumption in favour' in the tilted balance.

The first assessment is whether the proposals represent 'sustainable development'. Paragraph 8 of the National Planning Policy Framework outlines the three overarching objectives to achieve sustainable development in the planning system; comprising economic, social and environmental objectives. The development would provide opportunities for local construction jobs, Council tax receipts from new homes and spending in the local economy (economic). The development would contribute to the provision of a range of homes that could meet the needs of present and future generations (social). The new homes would be in a sustainable location within the BUAB and not rely on use of the private vehicle (environmental). As such, the proposals are concluded as being overall 'sustainable development'.

The second assessment then is in applying the presumption in favour of sustainable development for decision taking which means granting permission unless (paragraph 11(d)):

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significant and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.

Paragraph 11(d)(ii) makes clear that decisions should be taken in accordance with the policies in the Framework unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this case, it is concluded that the impacts on the character and visual amenity of the immediate area, the residential amenity of neighbouring occupiers, and the quality of accommodation provided, would be significant and demonstrable adverse impacts which would outweigh the benefits of the contribution of 7 new dwellings to the housing supply. As such, in the tilted balance, the conflict with the Development Plan would outweigh the presumption in favour and the proposals would not benefit from the NPPF's presumption in favour of sustainable development.

The application is therefore recommended for refusal, for the following reasons;

HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

REFUSE

- 1 By reason of its height, roof form, scale, mass and bulk, the proposed apartment building would appear out of scale and character with surrounding development. The new building would be highly visible, overly dominant and visually prominent to the detriment to the street scene. The proposals would fail to visually integrate harmoniously with the area. The application is therefore contrary to the National Planning Policy Framework, policies D SP1 and D DM1 of the Arun Local Plan, Policy 2 of the Rustington Neighbourhood Plan and Part P.01 of the Arun Design Council Design Guide SPD.
- 2 The relationship between the habitable room windows of the townhouses and those at Rawson Court would fail to comply with minimum recommended separation distances and would result in unacceptable inter-visibility and overlooking between existing and future occupants. As such, the proposals would fail to protect residential amenity, contrary to the National Planning Policy Framework, policies D DM1 and QE SP1 of the Arun Local Plan and the Arun District Council Design Guide SPD.
- 3 The proposed townhouses would fail to comply with the national internal space standards and not provide appropriately sized living accommodation. In addition, within the proposed apartment block, Flat 3 would fail to comply with the minimum balcony size in the Arun District Council Design Guide SPD and thus provide sub-standard external amenity space to serve these occupants. As such, the proposals would not provide adequate quality living accommodation, contrary to the Nationally Described Space Standards, policy D DM2 of the Arun Local Plan, and the Arun District Council Design Guide SPD.
- 4 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.