

Recommendation Report for Planning Permission

REF NO: R/113/21/PL

LOCATION: 66 The Street
Rustington
BN16 3NR

PROPOSAL: Construction of a single-storey upwards extension to provide an additional 4 No. residential units. This application affects the setting of a listed building & affects the character & appearance of the Rustington Conservation Area & is in CIL Zone 4 (Zero Rated) as flats.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application proposes an extra floor to provide 4 additional residential units. Following a site visit it was found that the building upon which this extension is proposed has been demolished.
SITE AREA	331 sq.m.
TOPOGRAPHY	Predominantly flat.
SITE CHARACTERISTICS	The site is a single storey light industrial unit that has received prior approval for use as 6 flats which during the course of this application, as witnessed on the 14 December 2021, has been demolished.
CHARACTER OF LOCALITY	A mixed use area to the back of Rustington High Street area.

RELEVANT SITE HISTORY

R/205/19/PD	Notification for Prior Approval under Class PA for change of use from Premises in Light Industrial Use (Class B1(c)) to dwellinghouses (Class C3) to provide self contained flats (4 one bed flats & 2 two bed flats)	No Object'n + Conds 24-10-19
-------------	---	---------------------------------

R/205/19/PD allowed the conversion of the light industrial unit to provide self contained flats (4 one bed flats & 2 two bed flats). As the building, the subject of this application, has been demolished it no longer benefits from this permission.

REPRESENTATIONS

Rustington Parish Council object on the following grounds;

- Access inadequate.
- Access onto The Street dangerous.
- Does not comply with Arun Parking Standards.
- Would increase pressure for on street parking.

- Overdevelopment of site.

25 letters of objection making the following points;

- Parking inadequate.
- Overdevelopment of the site.
- Access problems to site. Access required to rear of shops.
- Privacy of residents of Pegasus Court impacted.
- First floor development will block light to Pegasus Court.
- Out of keeping with Conservation Area.
- Access for emergency vehicles would be a problem.
- Parking of 6 cars unrealistic. No on street capacity for extra car parking.
- 50A, 50 and 48 The Street impacted by loss of light and privacy.
- First floor would block light of ground floor flats.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC Highways - No objection subject to conditions. However with regards to car parking the following is stated:

'This application has been assessed using the Arun's car parking supplementary planning document. I note that the transport document refers to the old WSCC car parking demand calculator which is no longer in use.

No additional parking is proposed to serve the proposed extension. The site layout plan demonstrates existing onsite parking provision of 6 parking spaces. However, these are tandem parked and for independent residential use would result in vehicle users blocking each other. Given this, the site would realistically be able to accommodate 3 vehicles. Based on Arun parking standards, the permitted use would create a demand of 7 parking spaces (1 parking space for each flat + a visitor provision totalling 20% of total the number of dwellings). Given that the existing parking can accommodate 3 vehicles, the potential shortfall would be 4 spaces. However, the LHA is mindful that this application is already permitted and not part of the current proposal.

This proposal would therefore create an additional demand for 5 parking spaces, subsequently this amount would be the potential shortfall for assessment. A parking beat survey was undertaken between 12th November - 13th November 2020 at 1am.

In summary, overnight there are 17 parking spaces within 200m from the site. It has been demonstrated that the shortfall of 5 spaces can be accommodated on-street within the nearby roads. Therefore any overspill parking created by the development would not be anticipated to create a highway safety issue; however the LPA may wish to assess any implications upon on-street parking from amenity perspective. They do note a shortfall in parking spaces.'

ADC Environmental Health - No objection subject to conditions.

ADC Drainage - Objection to the application has been lodged given that the proposed development

would render almost the entire site impermeable. At present the central section of the site appears to be permeable grass (see google image below). No information regarding surface water drainage (regarding the existing or proposed) has been submitted with this application, no reference has been made to drainage in the cover letter or DAS.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. As the site no longer benefits from consent reference R/205/19/PD the parking proposed by that consent falls away. In this case no parking is proposed and therefore a shortfall of 7 spaces is significantly below that required by the Arun Parking Standards. It is noted however that the site can potentially provide 3 car parking spaces.

POLICY CONTEXT

Designation applicable to site:

The site abuts Rustington Conservation Area.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
HERDM1	HER DM1 Listed Buildings
HERDM3	HER DM3 Conservation Areas
TSP1	T SP1 Transport and Development
WDM3	W DM3 Sustainable Urban Drainage Systems

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 is 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."

The proposal is not considered to comply with relevant Development Plan policies in that it would have an unacceptable impact on neighbouring residential amenities and it has not been demonstrated that no unacceptable drainage risk would ensue as a result of the development of the site.

Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

"In considering whether to grant Listed Building Consent for any works, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The proposal is not considered to materially affect the character or the setting of the Grade II Listed Buildings.

Where the building is located within, or as is the case for this site, abutting a Conservation Area, Section 71(1) of the Act states:

In the exercise, with respect to any buildings or other land in a Conservation Area of any powers (under the Planning Acts), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The proposal is considered to conflict with this criteria in that this proposed two storey building will not preserve or enhance the character or the character of the Conservation Area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS**PRINCIPLE**

The main issues in this application are impact on residential amenity of neighbouring properties and the character of the adjacent Conservation Area, a lack of on site car parking and absence of information on drainage.

The development plan in the determination of this application consists of the Arun Local Plan and the Rustington Neighbourhood Development Plan.

Policy D DM1 of the Arun Local Plan sets out 13 design aspects of which applications should be assessed against. These include: Character, Appearance, Impact, Innovation, Adaptability, Crime Prevention, Trees, Public realm, Layout, Public art, Density and Scale.

Policy D SP1 of the Arun Local Plan sets out that all development proposals should seek to make efficient use of land but reflect the characteristics of the site and local area in their layout, landscaping, density, mix, scale, massing, character, materials, finish and architectural details.

Policy D DM4 of the Arun Local Plan requires that development proposals be in keeping with the host dwelling and the area it is located in.

Heritage policies HER DM2 and HER DM3 that require that the character or appearance of a Conservation Area is preserved and that the setting of any nearby Listed Buildings is protected.

Policy W DM2 requires that development provides evidence that it will not result in any unsafe flood risks.

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.

Policy 4: Sustainable Drainage

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 as appropriate for the ground conditions:

- i. permeable driveways and parking areas;
- ii. water harvesting and storage features;
- iii. green roofs; and
- iv. soakaways.

DESIGN AND VISUAL AMENITY

The property is located behind two and single storey properties facing The Street and therefore there will be some visible points to the east of The Street where above the single storey shops the extension will be prominent within the general street scene. The utilitarian appearance of the proposed extension will have a jarring effect on the area in conflict with policies D DM1 (1) , D DM4 (e) of the Arun Local Plan, policy 2 of the Rustington NP and the Arun Design Guide which requires that development respects local character and appearance.

The resultant building will be visually integrated with the previous and now demolished ground floor building as it follows its existing building lines and have the same flat roof finish. As a result it will comply with policy D DM4 (a) and (b) of the Arun Local Plan.

RESIDENTIAL AMENITY

The rear elevation facing Pegasus Court will have windows directly overlooking into the premises and rear garden of Pegasus Court. These cannot be conditioned to be obscurely glazed and fixed shut as they are sole windows serving the proposed flats. The rear of the proposed extension will abut the external amenity area used by residents of Pegasus Court.

The Arun Design Guide is considered relevant to this application. The guidance is that there should be 21 metres back to back distance between properties. In this case there would be just 11 metres from the rear face of the first floor extension to the main facing windows of Pegasus Court.

The extension will have significantly harmful overlooking effects of the properties and external amenity area of Pegasus Court. In addition in such close proximity will have a very domineering and overbearing effect on the residents of Pegasus Court and the users of their external amenity area. The proposal will therefore be in conflict with policies D DM1 (3) and D DM4 (c) of the Arun Local Plan.

HIGHWAYS AND PARKING

The extensions will require a parking demand of 7 spaces as per the Arun Parking Standards SPD. No parking is shown to be proposed which means that there is likely to be pressure on on street parking in the immediate area in conflict with policy TSP 1 (d) of the Arun Local Plan.

RESIDENTIAL AMENITY SPACE

The extension would have a small balcony allocated to each flat. Given that the site is within reasonable walking distance to the expansive seafront to the south a reason for refusal on this ground would be unsustainable.

HERITAGE

Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard for the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses. Paragraph 197 of the National Planning Policy Framework requires that when determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

In this case the level of harm arising from this proposal is considered as substantial as per the reasons given above in the design and visual amenity section of the report.

The NPPF in paragraph 201 states that where proposed development 'will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

The applicants have failed to positively address sections a) to c) above and the Council is therefore correct to refuse this application on heritage grounds.

In so far as the Listed Buildings are concerned the development does not cause harm to the setting of the nearest Listed Buildings. This is due to their significant distance away from the proposed development - 40 metres from Manor House (48 The Street) where there is also a significant tree screen boundary on that property's eastern boundary and 45 metres from 76/78 The Street.

As a result of the above the proposal it will comply with policy HER DM2 and conflict with policy HER DM3 of the Arun Local Plan.

DRAINAGE

The hierarchy for sustainable drainage must be followed, therefore infiltration must be prioritised above discharging to a watercourse or a sewer. However, it is 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 we oppose all connections of surface water to the foul sewer.

To overcome the objection of the drainage engineer the applicant should complete winter groundwater

monitoring and winter infiltration testing and complete calculations to assess the size of structures is required.

At present therefore it has not been established that the site cannot be satisfactorily drained in conflict with policy W DM2 (b) of the Arun Local Plan which requires that development will not be permitted where it has not been demonstrated that development will be safe from any flood risk.

SUMMARY

The proposal needs to be considered without any reference to R/205/19/PD as for the reasons given above the site does not benefit from. In this case the upward extent and siting of the proposal will have a negative effect on neighbouring residential amenities and the character and appearance of the area generally including the setting of the Conservation Area that abuts the site in conflict with policies D DM1, D DM4 and HER DM3 of the Arun Local Plan. In addition the proposal is in conflict with policies T SP1 and W DM2, W DM3 of the Arun Local Plan due to the absence of any parking proposed and measures to satisfactorily drain the site.

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 be 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 (including the adjacent Conservation area), the residential amenity of neighbouring occupiers, the lack of adequate on site vehicle parking and the absence of information of measures to drain the site would be significant and demonstrable adverse impacts which would outweigh the benefits of the contribution of 4 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.

As a result the application is 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 The first floor extension by virtue of its height and siting will overlook, be overpowering and cause a loss of privacy to the residents of Pegasus Court causing unacceptable harm to residential amenity contrary to policies D DM1 and D DM4 of the Arun Local Plan and the Arun Design Guidance.
- 2 Due to the siting, height and views of the extension from the Rustington Conservation Area, the proposal will have a discordant and unacceptable effect on the character and appearance of the area and fail to preserve or enhance the setting of the adjoining Conservation Area in conflict with policies D DM1, D DM4 , HER DM3 of the Arun Local Plan, policy 2 of the Rustington Neighbourhood Plan, Arin Design Guidance and the NPPF.
- 3 It has not been demonstrated at all that the development can take place without any danger to life/property from flooding contrary to policies W DM2 and W DM3 of the Arun Local Plan and

policy 4 of the Rustington Neighbourhood Plan.

- 4 The proposal is not proposing any parking on site and as a result will have a harmful impact on the safety of the local highway environment from added pressure for parking in it in conflict with policy T SP1 of the Arun Local Plan.
- 5 **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.