

Recommendation Report for Planning Permission

REF NO: R/63/26/PL

LOCATION: The Windmill Inn and
34 Mill Lane
Rustington
BN16 3JN

PROPOSAL: Demolition of existing Public House and 1 No dwelling and redevelopment for retirement living accommodation (Use Class C2) comprising 28 No retirement living apartments and 3 No retirement living cottages, including communal facilities, access, car parking and landscaping (resubmission following R/143/24/PL). This application is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks approval of the demolition of The Windmill Inn Public House and 34 Mill Lane and the construction of 28, one and two-bed apartments, and 3 no. 2-bed cottages to accommodate older persons (age restricted). The proposal includes a guest room, a communal owners lounge, parking for 13 cars and secure and covered space for mobility scooters.
SITE AREA	0.31 hectares
RESIDENTIAL DEVELOPMENT DENSITY	100 dph.
TOPOGRAPHY	Predominantly flat with a fall off of 1m across the site in a north-easterly direction.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Walls and close boarded fence.
SITE CHARACTERISTICS	The site is made up of The Windmill Inn, a former public house with a large amenity space to the rear and land to the north. To the south of the former public house is a car park. The southern part of the of the site is 34 Mill Lane which is a single-storey detached residential dwelling.
CHARACTER OF LOCALITY	The subject site is located on Mill Lane/B2187 which is one of the primary roads into Rustington. Approximately 80m to the north of the site is a railway line. The area is predominantly residential in character with predominantly detached bungalows and two storey dwellings. To the north of the site are two locally listed cottages (44-46 Mill Lane).

Approximately 80m in a southwestern direction is a parade of local shops located on Worthing Road. The nearest bus stop is located approximately 100m to the south on Albert Road. Angmering Railway Station is located approximately 17 minutes walk to the west.

RELEVANT SITE HISTORY

R/143/24/PL	Demolition of existing Public House and 1 No. dwelling and redevelopment for retirement living accommodation comprising 28 No. retirement apartments and 3 No. retirement cottages, including communal facilities, access, car parking and landscaping. This application is in CIL Zone 4 (Zero Rated) as other development.	Refused 14-02-25 Appeal: Dismissed 24-07-25
R/60/22/PL	Extension and remodelling of existing public house to form hotel with 20 No bedrooms and associated parking and landscaping. This site is in CIL Zone 4 (Zero Rated) as other development.	ApproveConditionally 25-08-22

Planning permission was refused in February 2025 for an identical scheme and the subsequent appeal was dismissed. The details of this scheme are set out below:

R/143/24/PL - Demolition of existing Public House and 1 No. dwelling and redevelopment for retirement living accommodation comprising 28 No. retirement apartments and 3 No. retirement cottages, including communal facilities, access, car parking and landscaping. This application is in CIL Zone 4 (Zero Rated) as other development.- REFUSED on 14/02/2025

Reasons for Refusal:

1.The development fails to make a contribution towards affordable housing provision and is contrary to the aims and objectives of the Council's policy requirements of a minimum of 30% affordable housing and is contrary to Arun Local Plan policy AH SP2 and the NPPF.

2.The proposal has not satisfactorily demonstrated that infiltration on-site is not viable, and is proposing to discharge to the foul sewer system which is not a recognised means of discharge on the SuDs hierarchy. No evidence been provided they have permission of the owner of the sewer to discharge into it. It has not been demonstrated that the risk of flooding would not increase on site and elsewhere. The proposal conflicts with Arun Local Plan Policy W DM3, Policy 4 of the Rustington Neighbourhood Plan and relevant paragraphs of the NPPF.

The applicant appealed this decision (Ref:APP/C3810/W/25/3361225) and the appeal was dismissed by the Planning Inspectorate (PINS) on 24th July 2025.

In the Appeal Decision, PINS stated that the first reason for refusal (affordable housing contributions) was overcome following the appellant's agreement to reinstate an earlier financial offer, which was agreed and secured through a Section 106 Agreement. PINS therefore only considered the second

reason for refusal during the hearing which was on drainage matters.

The Planning Inspector dismissed the appeal in July 2025 on the grounds that the foul sewer was an unacceptable outlet for surface water. The Planning Inspector also stated that the appellant had not adequately investigated the feasibility of other infiltration-based drainage or outlet options.

Despite recognising the benefits of providing 31 specialist homes for older people, the Inspector determined that the drainage-related harm would significantly and demonstrably outweighed those benefits.

This application is identical to the previous planning application with the only difference being the inclusion of SuDS to discharge surface runoff via two soakaways within the site. There would be no outlet provision for surface water runoff.

REPRESENTATIONS

Rustington Parish Council:

- Insufficient Parking: The proposed 10 parking bays are inadequate to support residents, carers, visitors, and work vehicles.
- Loss of Public Infrastructure: The new entrance layout eliminates an existing 3-car lay-by, worsening local on-street parking pressure.
- Traffic Hazards: Exiting traffic turning right onto the busy Mill Lane poses a severe safety risk due to existing heavy congestion and frequent tailbacks.
- Poor Pedestrian Access: Claims regarding easy walking access to local shops are unrealistic because Mill Lane lacks safe crossing points, dropped kerbs, and a central reservation.
- Unsuitable Walking Route: The alternative route for elderly residents is excessively long (250 meters), requires crossing a private driveway, and forces the use of a heavily congested shopping service road.
- Inadequate Affordable Housing Contribution: The developer is offering a financial payment instead of fulfilling the required 30% affordable housing quota, and this monetary sum is significantly undervalued.

One letter of objection was received which is summarised below:

Loss of Privacy:

Request for all windows on the north elevation to use obscure glass and be non-opening to protect privacy.

Structural and Drainage Risks:

Concerns that a proposed perforated rainwater pipe running east-to-west could compromise the structural integrity of Windmill Cottage, which is over 400 years old and lacks modern foundations or a damp-proof course (DPC).

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. Comments relating to amenity and drainage matters are addressed in the conclusions section of this report.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Strategic Projects and Development (WSCC Section 106 Response)

- Calculated that there should be a s106 contribution of £12,106 for services

NHS Sussex

- No comments received.

Ecology

- Inaccurate Biodiversity Net Gain (BNG) metrics as a result of incorrect/inaccurate inclusion of native hedgerow and trees in the baseline measurement. Also need for updated bat emergence surveys.

Drainage Engineers

- The proposed drainage strategy does not comply with Standard 1 (Run Off) and Standard 3 (Extreme Rainfall and Flooding) of the National Standards for Sustainable Drainage Systems (NSfSDS) regarding the required separation distance between infiltration features and groundwater levels. The calculations and modelling in the event of extreme rainfall is insufficient. A comprehensive appraisal of alternative drainage and discharge options to resolve these issues is required.

- Insufficient assessment of the site constraints and how the design maximises resident amenity has been provided in the Drainage Statement to be in accordance with Standard 5 of the NSfSDS.

- No assessment has been provided on the biodiversity aspect of the SuDS. A site specific Bio-diversity risk and opportunity (BRO) statement should be provided to be in accordance with Standard 6 of the NSfSDS.

Surface Water Drainage (WSCC)

- Initial comments received on 14/05/26 stated no objection subject to the imposition of conditions. However, this position was revised on 02/06/26. The scheme does not meet Standard 1 (Run Off) and Standard 3 (Extreme Rainfall and Flooding) of the NSfS and consequently conflicts with Local Policies WDM2 and WDM3. Their objection is summarised below:

1. Reuse is stated however no feature, scale or layout is shown.
2. 1 m buffer from the highest recorded ('Maximum likely') groundwater level is not achieved.
3. Percolation testing is required at the depth and location of any infiltration features. Additional testing will be required to account for achieving the required buffer from groundwater (Point 2). Calculations and designs will need to be updated in response to the results.

Housing Assets and Developments

- Following the appeal for R/143/24/PL, an affordable housing contribution of £95,353 was agreed. Although independent assessments indicated a higher value for an affordable housing contribution, given the planning history of the site, the previously agreed s106 fee is deemed acceptable. This would need to be paid prior to commencement of development and should be secured by way of condition.

Environmental Health

- No objection subject to the imposition of conditions relating to Demolition/construction works, contamination assessment, details of building services plant, noise assessment and details of lighting scheme

Highways (WSCC)

- No objection subject to the imposition of conditions relating to submission of details on vehicle access, vehicle and cycle parking and the construction plant

National Highways

- No objection subject to the imposition of a Construction Traffic Management Plan condition

Aboriginal Cultural

- No comments received

Parks and Landscaping

- No objection subject to the imposition of a condition relating to detailed landscape proposals.

Southern Water

- No objection subject to the imposition of a condition relating to submission of details of the landscaping proposals in proximity of public apparatus.

Conservation Officer

No comments received

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. Comments relating to parking and highways, affordable housing, biodiversity, drainage are addressed in the conclusions section of this report.

POLICY CONTEXT

Designation applicable to site:

- Built up Area Boundary,
- Flood Zone 1: Prone to Groundwater Flooding, and
- CIL Rated 4

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

HDM2	H DM2 Independent living and care homes
DDM2	D DM2 Internal space standards
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
HDM1	H DM1 Housing mix
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
QEDM3	QE DM3 Air Pollution
RETDM1	RET DM1 Retail development
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
WDM1	W DM1 Water supply and quality
WDM2	W DM2 Flood Risk
QESP1	QE SP1 Quality of the Environment
QEDM1	QE DM1 Noise Pollution
AHSP2	AH SP2 Affordable Housing
ENVDM4	ENV DM4 Protection of trees

ENVDM5	ENV DM5 Development and biodiversity
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
TSP1	T SP1 Transport and Development
WDM3	W DM3 Sustainable Urban Drainage Systems

[Rustington Neighbourhood Plan 2014 Policy 4](#)

Rustington Neighbourhood Plan 2014 Policy 1	Sustainable Drainage
Rustington Neighbourhood Plan 2014 Policy 2	The Rustington Convalescent Home (Carpenters), Sea Road
	Housing Design

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, The South Inshore & South Offshore Marine Plan 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.

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 conflicts with relevant Development Plan policies in that both social and environmental objectives are not met.

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.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

BIODIVERSITY NET GAIN

This application is liable for Biodiversity Net Gain (BNG) and the following is a summary of the key points: A 13.22% net gain can be made in habitat units. No linear or water units exist on site.

CONCLUSIONS

PLANNING HISTORY

Planning permission was refused for an identical scheme in February 2025 (Ref: R/143/24/PL). The first reason was due to the scheme failing to make an affordable housing provision via s106 agreement. The second reason for refusal was due to the scheme failing to provide satisfactory drainage solutions with the proposed discharge of surface runoff water into the foul sewer system.

During the course of the appeal (Ref:3361225), an affordable housing contribution was agreed resulting in this reason for refusal being withdrawn. However, the reason for refusal relating to drainage was considered by the Planning Inspectorate and the appeal was dismissed. Given the identical nature of development with no changes in planning policy at local and national level in the intervening period; this is a material consideration in the determination of this planning application.

While there have been no changes in local or national planning policies since this decision, the Department for Environment, Food and Rural Affairs (DEFRA) published the revised National Standards for Sustainable Drainage Systems (NSfSDS) on 19th June 2025 which was then updated on 30th July 2025. These updated guidelines introduced significant changes in how drainage matters are assessed and will be the primary benchmark against which drainage matters will be assessed in the determination of this application.

PRINCIPLE

Arun has one of the oldest populations (people aged 60+) in the country and there is a need for additional care homes (use class C2) to cater for this. This is outlined in the supporting text of policy H DM2 of the Local Plan and the Arun Provision of Accommodation Suitable for Older People and People with Disabilities (2019).

Policy H DM2 of the Local Plan supports the provision of new independent living and care homes specialist accommodation within the Built-Up Area Boundary and in a sustainable location for the health and wellbeing of future residents. The site was located in a sustainable location to meet the needs of future residents.

The property was formerly used as a public house. Local plan policy RET DM1 sets out the policy on retail development within the district. However, it does not provide any protection to existing public houses whether inside the town centre or outside. The loss of this public house is therefore acceptable.

Accordingly, as assessed in the previous planning application, the principle of a care home residential living accommodation (use class C2) would be acceptable in this location; subject to it being in accordance with other policies within the Development Plan.

FLOOD RISK AND DRAINAGE

Matters relating to flood risk and drainage was the only outstanding reason for the refusal considered at

the appeal hearing last year. Given this scheme is identical to the previous one, the acceptability of the Flood Risk Assessment and Drainage Statement by The Civil Engineering Practice (Dated April 2026) which outlines the modified drainage strategy is a highly material consideration in whether this scheme could be acceptable.

Policy W DM3 of the Local Plan requires all major developments to integrate Sustainable Urban Drainage Systems (SuDS) within public open spaces and roads, reflecting discussion with the appropriate bodies. The SuDS must also contribute positively to the appearance of the area integrating access to the system. In order to ensure that the SuDS discharges water at the same or lesser rate, the applicant must carry out tests, calculations and modelling to ensure there would be no flooding of properties, the public highway or inundation of the foul sewerage system.

Policy 4 of the Rustington Neighbourhood Plan requires new development to include SuDS on site. Paragraphs 181, 182 and 187e of the NPPF states that new development should not lead to increased flood risk elsewhere.

Paragraph 182 of the NPPF requires sustainable drainage with minimum operational standards. The DEFRA National Standards for Sustainable Drainage Systems (NSfSDS) July 2025 includes seven specific standards for sustainable drainage and provides clear technical criteria.

The SuDS would be located under the carpark at the rear of the site as well as a smaller one at the front of the development. There would be no provision for external drainage options from the SuDS to a drain or watercourse. The FRA also provided testing and calculations in the event of extreme rainfall and flooding.

The groundwater monitoring in the FRA demonstrates that the site has low permeability as well as a high water table. The peak ground water level was measured to be only 200mm below the proposed soakaway base, falling significantly short of the 1m separation distance required by the NSfSDS. Without an external drainage option to allow for outflow, officers consider that the SuDS would be unable to fully absorb surface water runoff in the event of extreme rainfall and flooding. The lack of a vertical buffer also risks pollution to groundwater where no filtration through natural subsoil occurs and the drainage system discharges directly to groundwater. This is contrary to sustainable drainage standards as well as Environment Agency policy.

No infiltration testing has been provided for the shallow subsoil layers further from the water table, which have been discounted from the design. It is therefore not certain whether an alternate shallow infiltration solution is possible. No assessment of alternative offsite outlets is presented with the planning application. There may be options yet to be explored to connect to a watercourse, sewer or highway drain which have not been presented.

No justification for departure from the NSfSDS has been provided.

In their assessment of the Flood Risk Assessment (FRA), the Council's Drainage Engineers reviewed the calculations relating to extreme rainfall and flood risk and concluded that they were of insufficient quality. The calculations failed to provide satisfactory infiltration modelling, exceedance flow routes, details of flow control devices, or appropriate design buffers.

West Sussex County Council, the Lead Local Flood Authority also raised objection for similar reasons.

As also identified by the Planning Inspectorate last year, there has been no exploration of alternative external drainage options to address these drainage matters should infiltration be proven to be unviable. Accordingly, given these deficiencies in the FRA, the drainage strategy would fail to comply with Standard 1 (Runoff Destination) and Standard 3 (Extreme Rainfall and Flooding) of the NSfSDS and not be in accordance with policy WDM3 of the Arun Local Plan.

Turning to the overall design, amenity and biodiversity of the SuDS, whilst it is acknowledged that the swale at the front of the site would provide some landscaping as well as biodiversity and amenity benefits, the substantially larger SuDS at the rear of the site would be located entirely beneath the car park which would limit permeability and provide limited amenity and biodiversity value. While the site constraints are acknowledged, insufficient assessment has been made on amenity and biodiversity for officers to be satisfied that the SuDS are in accordance with Standards 5 and 6 of the NSfSDS. In design terms, due to insufficient assessment and justification, the SuDS would also fail to be in accordance with Policy W DM3 (a, c and d) of the Local Plan.

Accordingly, the SuDS and overall drainage strategy would fail to be in accordance with the National Standards for Sustainable Drainage Systems, Policy W DM3 of the Arun Local Plan, Policy 4 of the Rustington Neighbourhood Plan and the NPPF (2024).

CHARACTER AND APPEARANCE

The design of the proposed scheme would be identical to that proposed by the previous planning application. While this application was refused, the design and character was acceptable. There have been no changes in planning policy at a local or national level since the determination of the previous planning application.

In terms of scale, bulk and massing, the main building would be only marginally taller than the existing public house. Despite its scale, the gables, porches, recessed central section, as pallet of materials would be sufficiently in-keeping with the street scene and overall character of the area and therefore be acceptable from a design perspective.

For the three chalet bungalows to the rear, whilst not aligned with the prevailing development pattern of the area, their modest scale, generous spacing and limited visibility from the street would not result in any harm to the character of the locality. While front dormers are not typical of the area, they would be modest and would have minimal visual impact on the surrounding area so would be acceptable.

In terms of the overall layout of the scheme, the main building would be sufficiently set back from the street scene allowing for sufficient landscaping and planting. The parking and servicing areas being located to the rear are also acceptable.

Accordingly, the impact of the proposed development on the character and appearance would be acceptable and in keeping with the established character of the area. The proposal accords with policies D DM1 and H DM2 of the Arun Local Plan, Policy 2 of the Rustington Neighbourhood Plan, the Arun Design Guide and the NPPF.

HERITAGE

As identified in the identical previous application, there are two neighbouring locally listed buildings to the north of the site which are 44-46 Mill Lane.

Given the proposed development would retain the existing building line and would be similar in terms of scale and bulk to the existing public house, there would be no harm to the setting of these non-designated heritage assets.

Accordingly, the proposed development would be in accordance with Policies HER SP1 and HER DM2 of the Arun Local Plan and the NPPF.

RESIDENTIAL AMENITY

In the previously determined planning application, the amenity impact was considered to be acceptable. There have been no planning applications on neighbouring sites which would alter the previous

assessment of amenity impact on neighbouring properties.

The proposed development exceeds the minimum separation distances for the rear-facing windows of the neighbouring dwellings on Fircroft Crescent which back onto the subject site. As such, the proposals would not give rise to any unacceptably adverse overlooking.

By virtue of the separation distances the proposed development would not have an overbearing impact on 32 Mill Lane which neighbours the site to the south.

With a separation distance of 23 metres from 44-46 Mill Lane which neighbour the site to the north, while there would be some loss of daylight/sunlight and overbearing impact to the rear of the back gardens beyond what is existing, the additional impact would be limited and therefore acceptable. In terms of loss of privacy, while there would be some additional overlooking from habitable side facing windows to the back gardens of these properties, given the separation distance, any impact beyond existing would be limited and therefore acceptable.

The three single storey chalet bungalows would be modest in scale and bulk to not have an unacceptable amenity impact on neighbouring properties.

Turning to the impact on future users of the site. A noise assessment did not accompany the application despite its location next to a busy road and railway line, as such were permission to be granted a pre-commencement condition to secure a noise assessment would be necessary.

Overall, subject to the imposition of appropriate conditions, the proposal would not cause unacceptable harm to neighbouring residents through overlooking, loss of privacy, overshadowing, overbearing impact or noise and would comply with Policy QE SP1 of the Arun Local Plan and the Arun Design Guide.

AFFORDABLE HOUSING

In the previously refused planning permission, the lack of an affordable housing contribution was one of the reasons for refusal. However, during the appeal process, the appellant agreed to reinstate an earlier s106 contribution offer which was accepted by the LPA. This reason for refusal was therefore not considered further through the appeal.

As this scheme is identical to the previous one in terms of unit number and size and there have been no changes in planning policy in this intervening period, the previously agreed affordable housing contribution of £95,353 would be acceptable for this scheme.

Accordingly, based on the above assessment affordable housing provision would be acceptable and would be in accordance with Policy AH SP2 of the Local Plan.

PARKING AND HIGHWAYS

In the previous identical application, the highways matters were considered to be acceptable. There have been no changes in planning policy at a local or national level since the determination of the previous planning application. This is a material consideration in how highways matters are accessed for this application.

The provision of 13 parking spaces, comprising 10 spaces serving the retirement living accommodation and 3 spaces serving the cottages meets the identified demand and is therefore acceptable.

The access arrangements to the proposed development at the southern end of the site would serve the car park as well as the three chalet bungalows to the rear. The access is of adequate width and achieves appropriate visibility splays for vehicles to access and leave the site safely. The design would also allow

for safe movements of pedestrians and vulnerable users into and out of the site.

Whilst the loss of the existing three-space layby would result in the loss of on-street parking, the layby's removal would be required to facilitate a safe and policy-compliant means of access to the site so would be acceptable.

In terms of traffic generation on the wider road network, the proposed C2 use would generate substantially fewer vehicle movements than the existing use as a public house thus the impact on the road network would be acceptable.

The site is located within walking distance of a range of day-to-day facilities, services and transport serves including buses and Angmering station. The site is therefore considered to be in a sustainable location.

Accordingly, based on the above assessment, subject to the imposition of relevant conditions, the proposed development would be in accordance with Policies T SP1, H DM2 and T SP1 of the Local Plan (2018)

INTERNAL AND EXTERNAL SPACE STANDARDS

As assessed in the previous application, the proposal is in accordance the Technical housing standards - nationally described space standard and also meets the M4(2) accessible and adaptable standards. There is also sufficient private amenity space and is in accordance with the Arun Design Guide.

Accordingly, the development complies with Policy D DM2 of the Arun Local Plan, Technical housing standards and the Arun Design Guide.

BIODIVERSITY

In the previous planning application, the submitted preliminary appraisal and bat survey were considered to meet the biodiversity requirements of the site and were acceptable, subject to the imposition of conditions.

The Biodiversity Net Gain Assessment shows the same habitat net gain of 13.22% as the previous application. This net gain exceeds the 10% required. It is acknowledged that the native hedgerow planting should not have been included in this assessment as there is a baseline of 0% for this habitat. In addition, the four trees are incorrectly listed in the matrix which would affect the final BNG calculation. However, as the BNG calculation was considered acceptable in the previous application, this aspect of biodiversity is considered to be acceptable.

The Preliminary Ecological Appraisal advises that further bat emergence surveys are required. The original emergence surveys for the previous application are out of date. Because no bat roosts were recorded in 2024 one emergence survey is considered sufficient.

In the absence of this bat survey, the proposed development would fail to offer sufficient protection to potential habitats on site. The development would therefore fail to comply with Policy ENV DM5 of the Arun Local Plan and the NPPF.

TREES

As assessed in the previous application, the same trees will be removed and there will be the same and the tree protection measures will be the same. There remain no TPOs on the site.

Accordingly, the proposal complies with Policy ENV DM4 of the Arun Local Plan.

SUMMARY

The NPPF presumption in favour of sustainable development states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for applications involving the provision of housing where a 5-year HLS cannot be demonstrated), planning permission should be granted unless (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

Subject to the imposition of appropriate conditions, the principle of development is acceptable. However, the proposed drainage strategy is inadequate in terms of its design, robustness and supporting detail, and fails to fully assess alternative external drainage solutions that could effectively mitigate surface water runoff and flood risk. As such, the proposal conflicts with the National Standards for Sustainable Drainage Systems, Policy W DM3 of the Arun Local Plan and the National Planning Policy Framework.

Paragraphs 181, 182 and 187(e) of the NPPF make it clear that development should not increase flood risk elsewhere. Given the identified inadequacies of the proposed drainage strategy and the resulting potential for increased flood risk beyond the site, this conflict attracts substantial weight against the proposal.

Furthermore, in the absence of a bat survey, insufficient information has been provided to demonstrate that the development would adequately protect potential bat habitats on the site. The proposal therefore fails to comply with Policy ENV DM5 of the Arun Local Plan and the provisions of the NPPF.

It is acknowledged that the Council cannot currently demonstrate a five-year supply of deliverable housing sites, with the latest position indicating a supply of 3.41 years. It is also recognised that the scheme would deliver 31 units of specialist accommodation, helping to meet an identified housing need. Whilst, the provision of housing would constitute a significant benefit.

Whilst the development would deliver some social and economic benefits, including specialist accommodation to meet an identified need, these benefits are significantly and demonstrably outweighed by the harm arising from the unacceptable flood risk impacts and lack of sufficient ecological information. Therefore, when assessed against the policies of the Framework as a whole, the proposal is recommended for refusal.

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.

SECTION 106 DETAILS

This application is not CIL liable as flatted development in zone 4.

CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

REFUSE

- 1 Due to an insufficiently robust assessment to mitigate the impact of extreme rainfall and flooding, as well as an inadequate assessment and justification for the provision of amenity and biodiversity, the SuDS drainage strategy would fail to be in accordance with the National Standards for Sustainable Drainage Systems (NSfSDS), Policy W DM3 of the Local Plan, Policy 4 of the Rustington Neighbourhood Development Plan, and the NPPF.
- 2 Due to the absence of a bat survey, the proposed development would fail to offer sufficient protection to potential habitats on site. The development would therefore fail to comply with Policy ENV DM5 of the Local Plan and the NPPF.
- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern and discussing those with the Applicant. It has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. The Local Planning Authority has clearly set out, in its report, the steps necessary to remedy the harm identified in the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.