

PLANNING APPLICATION REPORT

**REF NO:** BE/57/22/PL

**LOCATION:** Land adjacent to Tesco Express  
351 Chichester Road  
Bersted  
PO21 5AN

**PROPOSAL:** Erection of 6 No. 2-storey dwellings consisting of 2 No 2 bed units & 4 No 3 bed units, access, parking, cycle storage, bin store and other associated landscape works (resubmission following BE/104/21/PL). This site is in CIL Zone 4 & is CIL Liable as new dwellings.

<b>SITE AND SURROUNDINGS</b>
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DESCRIPTION OF APPLICATION	Permission is sought for the erection of 6 two-storey dwellings consisting of a terrace of 2 two-bed units and 1 three-bed unit in Block A (facing to Chichester Road) and a terrace of 3 three-bed units in Block B behind the Tesco with access, parking, cycle storage, bin store and associated landscape works.
	The main entrance would be from Chichester Road to the north of an existing entrance to Tesco. The bus stop would be replaced.
SITE AREA	1955.80 square metres.
RESIDENTIAL DEVELOPMENT DENSITY	31 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	There are some mature trees that would be affected.
BOUNDARY TREATMENT	Wooden fences form the boundary with neighbouring gardens to the south, southeast, and west, and a stone wall forms the site's boundary to the north, with a new wooden fence forming the boundary with the Tesco store to the south east of the site.
SITE CHARACTERISTICS	A former car park and garden area serving the former Rising Sun public house. It is an irregular shaped plot of land with access off Chichester Road.
CHARACTER OF LOCALITY	Built-up area with predominantly residential, 2 storey, well set back semi-detached and terrace dwellings of substantial size and regularity along the north-eastern side of Chichester Road and Bedford Avenue sitting on narrow plots with outbuildings to the rear. There is a considerably different pattern of development to the west with well set back bungalows along Sun Park Close and 2 storey terrace with garage compound and a rather generous public area in St Clares Gardens.

<b>RELEVANT SITE HISTORY</b>
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BE/104/21/PL	Erection of 7 No. 2-storey dwellings consisting of 3 No. 2 bed units & 4 No. 3 bed units, access, parking, cycle storage, bin store and other associated landscape works. This site is in CIL Zone 4 & is CIL Liable as new dwellings.	Refused 06-09-21
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The above application was refused for the following reasons:

Having regard to the proximity and relationship of block B to neighbouring residential properties to the west, the proposal creates unacceptable living conditions for the occupants of adjoining properties 28 and 30 Sun Park Close through overbearing, limiting their outlook and overshadowing and for the prospective occupants of proposed property through overlooking their rear garden from the first floor of 26 Sun Park Close.

The development fails to respect the surrounding character and appearance of the area, would detract from the existing pattern of development. The proposal results in an unduly cramped and unneighbourly form of development which would be detrimental to the character and amenities of the surrounding residential area.

<b>REPRESENTATIONS</b>
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Bersted Parish Council: OBJECT:

- Although improvements have been made the design, does not reflect the appearance and character of the area, contrary to Bersted Neighbourhood Plan Policies ES1, HDQ1, HDQ2 and HDQ5 and Arun Local Plan Policies D SP1 and D DM1.
- There are no EVC points on site as required by Arun DC Design Guide Parking Strategy.

12 letters of objection received:

- It would impact privacy due to being overlooked.
- A large tree in the plot should have a preservation order on it.
- The houses nearest to Bedford Avenue will overlook our gardens and houses.
- Adding another exit here will cause even more dangers for the traffic and pedestrians.
- Amended drawings show a new vehicular access form Haverfordwest Close; do they have rights of access?
- Would have a detrimental effect on the rear access for residents of the north side of Bedford Avenue.
- Overdevelopment, overlooking, blocking daylight, loss of privacy, road danger.
- There is already considerable building development in North Bersted.
- The development of this small site would be completely out of character with the local area.
- This may well have had a detrimental effect on breeding birds, mammals, and insects.
- The committee should review letters of objection to previous application (BE/104/21/PL). All comments still apply.
- Dwellings shoehorned into a small site making the whole development look like an unplanned afterthought.
- Placement of refuse containers directly against our fencing, could lead to rodent infestation in neighbouring properties.
- Access to the site in a close vicinity of Bus stop and Tesco store access.

- No regard for wildlife, no trees should be removed.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Comments noted. The issues are discussed in the conclusions.

**CONSULTATIONS**

**CONSULTATION RESPONSES RECEIVED:**

**DRAINAGE ENGINEERS:** Have lodged a holding objection/request further information and ask the applicant to provide plans that clearly show that no boundary treatments - walls, fences or other structures - will be located within 3m of this watercourse. Conditions requested to be applied.

**NATURAL ENGLAND:** No objection subject to securing Appropriate mitigation.

**ADC GREENSPACE:** No landscape objection subject to conditions.

**ADC TREE OFFICER:** No objection subject to conditions.

**ENVIRONMENTAL HEALTH:** Main concern is noise from the road and the Tesco Express store and a submitted noise report fails to address noise from deliveries to the store. Their suggested conditions will be applied to the decision.

**WSCC HIGHWAYS:** No objection in traffic impact terms to the principle of developing the site for 6 dwellings and the relocation of the vehicular access. Visibility splays are required at 41.7m to the north and 41.5m to the south which are based on speeds surveys taken from the previous submission. These splays should be included on the site plan and Highways re-consulted.

**ARCHAEOLOGY:** It is unlikely works associated with the proposal would impinge on archaeological deposits to the extent refusal or the requirement of other mitigation measures would be justified.

**COMMENTS ON CONSULTATION RESPONSES:**

Comments noted. An Appropriate Assessment (AA) was issued to Natural England for review on the 22 July 2022, but no response has been received. It is likely Natural England will advise that subject to a contribution (towards the provision of accessible natural open green spaces to serve the area) being secured, there will be no adverse effect on the integrity of the European Site in view of its conservation objectives. A copy of the AA is on the Council's website. Should a response be received prior to the committee meeting, this will be reported to members by way of a report update.

Further comments are awaited from WSCC Highways with respect to visibility splays provided by the applicant.

**POLICY CONTEXT**

Designations applicable to site:

Built-Up Area Boundary;  
Pagham Harbour Access Management Zone B.

**DEVELOPMENT PLAN POLICIES**Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
HDM1	H DM1 Housing mix
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM2	ENV DM2 Pagham Harbour
ENVDM4	ENV DM4 Protection of trees
ENVDM5	ENV DM5 Development and biodiversity
QEDM1	QE DM1 Noise Pollution
QEDM4	QE DM4 Contaminated Land
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WDM1	W DM1 Water supply and quality
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

<u>Bersted Neighbourhood Plan 2014 Policy ES1</u>	Design of new development
Bersted Neighbourhood Plan 2014 Policy ES2	Surface water management
Bersted Neighbourhood Plan 2014 Policy ES6	Protection of trees
Bersted Neighbourhood Plan 2014 Policy ES8	Renewable energy
Bersted Neighbourhood Plan 2014 Policy HDQ1	Housing Site Allocations
Bersted Neighbourhood Plan 2014 Policy HDQ2	Integration of new housing
Bersted Neighbourhood Plan 2014 Policy HDQ4	Housing mix
Bersted Neighbourhood Plan 2014 Policy HDQ5	Design of new housing development
Bersted Neighbourhood Plan 2014 Policy HDQ6	Outdoor space
Bersted Neighbourhood Plan 2014 Policy HDQ7	Attention to detail
Bersted Neighbourhood Plan 2014 Policy HDQ8	Car parking

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

The relevant policies of the Bersted Neighbourhood Development Plan have been taken into account in determining 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 complies with relevant Development Plan policies in that it would not have unacceptable adverse effects on the visual amenities of the locality or the residential amenities of the adjoining properties.

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**

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

#### **CONCLUSIONS**

##### **KEY ISSUES**

The key issues are principle, design and visual amenity, residential amenity, highways/traffic and wildlife.

##### **PRINCIPLE**

Whilst the area is suitable for residential development in principle, being in the built-up area, such development should comply with the policies in the development plan. The key policies are D SP1, D DM1, D DM2, ENV DM2 and T SP1, of the Arun Local Plan.

Policy D SP1 of the Arun Local Plan requires development to make efficient use of land reflecting the characteristics of the site and local area and policy D DM1 states that a high standard of architectural principles should be demonstrate and new development should have a minimal impact to users and occupiers of nearby properties and land. Policy D DM2 expects internal spaces to meet the requirements of Nationally Described Space Standard. Policy ENV DM2 expects all new residential development to contribute towards the agreed strategic approach.

Policy HDQ1 of the BNDP refers to housing site allocations and the site is allocated for a minimum 5

dwelling.

The Council is unable to identify a 5-year supply of housing land and the policies which are the most important for determining the application are out of date. In these circumstances, paragraph 11 d) ii of the Framework requires planning permission to be granted unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

The proposal is acceptable in principle given its position in walking distance of a range of shops, facilities, and services. There are frequent bus services on Chichester Road providing access to Bognor Regis, Littlehampton, Chichester etc. and includes Chichester and Barnham Railway stations. Bus stops for these services are a very short distance from the site. It would provide six dwellings on a previously developed site which is sustainably located. Such an approach is supported by policies SD SP1 and SD SP2 of the Arun Local Plan, policy HDQ1 of the BNDP and NPPF.

#### DESIGN AND VISUAL AMENITY:

Policy D SP1 of the Arun Local Plan stresses that successful development should respond to locally distinctive patterns of development. Paragraph 13.2.9 of the Local Plan (Design) continues insisting that new development should ensure that height and massing does not interrupt or debase the rhythm of an existing building/roof line or detract from the local and wider area's character. Policy D DM1 (7) expects that all development will incorporate existing and new tree planting as an integral part of the proposal.

Policies ES1 and HDQ5 of the Bersted Neighbourhood Development Plan require new development to be of a high quality and to reflect the character of the location.

Arun Design Guide Supplementary Planning Document (SPD) was adopted 25th January 2021. Part P.O1 deals with infill development and requires development to respond positively to the character, appearance, and layout of surrounding buildings to provide high quality development which enhances amenity for surrounding and new residents.

Paragraph 130 of the NPPF emphasises that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and do not undermine the quality of life or community cohesion and resilience.

The National Design Guide is a material planning consideration for the purposes of decision taking. Criterion C1 requires developments to understand and relate well to the site, its local and wider context; including the existing built development, layout, form and scale. Criterion I1 requires development to respond to existing local character and identity including the characteristics of existing built form and the elements of a place or local places that make it distinctive. Criterion B2 requires development to be of an appropriate building type and form, having regard to the height of buildings around them, the relationship with the street width, and the sense of enclosure that results.

The proposal is for the construction of two 2-storey terraces of 3 dwellings. The access would be from Chichester Road via a new access road with pavement. The layout of the terrace within the former parking area would respect the pattern of development of surrounding dwellings. The terrace would have a separation distance of approximately 3m from the boundary flint wall to the north and would be set back from the pavement by 5m (in the closest point), the other dwelling would step back by 1.5m. The

terrace would share the same relationship to the street as Tesco Express does whilst recognising the position of a terrace of distinctive appearance to the north of the site.

There would be a repeated pattern of windows and recessed entrances supported by black timber cladding which links ground floor windows with those above. The homes will be constructed using a mixture of white silicone render and red brick slips. The brick slip system is chosen to match the appearance of surrounding buildings. Roof tiles will be Marley Modern Grey or similar. Windows and doors will be black colour UPVC framed. Rainwater goods will match the door and window colour. The roof form would follow the established pattern of the existing houses, with the roof gable running parallel to the road. No windows are proposed on flank walls, the main entrances would be from the Chichester Road. The ground floor would comprise of hall, sitting/dining room, kitchen, and toilet. There would be 2 or 3 bedrooms and bathroom at the first floor.

The terrace in the former pub garden would create a block of identical houses with similar design and materials (with small alterations only) as those in Block A, however, they would be deeper. The ground floor would comprise of a hall, sitting/dining room, kitchen, and toilet. There would be 3 bedrooms and bathroom at the first floor.

The access would be from Chichester Road via a new access road with pavement. The relationship of this terrace has been improved (from that recently refused), the number and scale of dwellings has been reduced from four x 3-storeys to three x 2-storeys. As a result, the dwellings are set well away from the rear boundary of properties accessed from Sun Park Close in accordance with the requirement of the Arun Design Guide for habitable room windows to be at least 14 metres from the flank wall of the neighbouring property (Page 92).

There would be more than substantial separation between the rear elevation of the proposed development and the rear elevation of the existing terrace of dwellings in Bedford Avenue, with their rear gardens and an access lane in between.

Given the conventional design and the position of the proposed terraces relative to the new access and the surrounding development, the new buildings would present a positive appearance in the locality, especially when viewed, in the context of neighbouring buildings, from Chichester Road. The proposal would be visually integrated with existing dwellings in siting, massing/design and respond to the pattern of surrounding development.

The development would not detract from the local and wider area's character. The proposal complies with Arun Local Plan policies D DM1, D SP1, policies ES1 and HDQ5 of the Bersted Neighbourhood Development Plan, relevant paragraphs of NPPF, the Arun Design Guide (SPD) and the National Design Guide.

#### **RESIDENTIAL AMENITY INCLUDING NOISE POLLUTION:**

Arun Local Plan policy D DM1 requires there be minimal impact to users/occupiers of nearby property and land. Policy QE SP1 requires all development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. Policy QE DM1 seeks to protect against the impacts of new noise generating development.

None of the Bersted NDP policies refer to residential amenity issues.

The proposed residential use would not be a noise generating form of development especially in an area of mixed-use development. The residential use would have similar characteristics to other residential properties in the locality.

The Arun Design Guide stresses that habitable room windows should generally be at least 14 metres from the flank wall of the neighbouring property (Page 92), back to side separation min 14m (Page 71). Back-to-back separation distance should be minimum 21m.

The development would have a sufficient separation distance and position towards all neighbouring dwellings including 28 and 30 Sun Park Close. There would be a separation distance of approximately 30m between the rear elevations of the proposed terrace within former pub garden and the rear elevations of terrace along Bedford Avenue.

Local Plan policy QE DM1 emphasises that noise sensitive development will not be permitted if its users would be affected by noise by proposed noise generating uses.

'Road Traffic Noise Assessment (with regards to block A) has been submitted by the applicant and reviewed by ADC Environmental Health Officer and the report, methodology, calculations, and findings were found to be reliable and therefore recommended any future permission granted it would be in accordance with the report.

The dwelling on the east side of block B would be in close proximity of the substantial property occupied by Tesco Express with its air conditioning units, a condenser and chiller/freezer within a screened area to the rear of the property, facing the proposal site (approved by BE/40/12). Prospective occupiers of this dwelling are likely to be affected by the noise produced by this plant, even though the applicant in their Design and Access Statement claims that the end of the three x 3-bedroom terraced properties orientates away from the plant area of Tesco Express and would be screened by a line of planted trees.

The main concern of Environmental Health with this site relates to noise from the road and the Tesco Express store. The applicant has submitted a noise assessment which concludes that the site is suitable for development, however some of the dwellings will require mitigation measures to protect the inhabitants from noise. The noise report does not appear to address noise from deliveries to the Tesco Express store, which may occur at unsocial hours. The applicant addressed Environmental Health's comments by provision an Acoustic Statement Update and EH has been re-consulted. Any comments received will be reported in a supplementary report. Notwithstanding the above, the matter is addressed by proposed Condition 9 in the Recommendation section of this report.

The development would not have an adverse impact to users and occupiers of existing nearby properties by way of overbearing or to prospective residents, by limiting their outlook, subject to conditions proposed to be attached to the decision.

The proposal would have an acceptable impact on residential amenity, in accordance policies D DM1, QE SP1 and QE DM1 of the ALP and relevant paragraphs of the NPPF.

#### INTERNAL & EXTERNAL SPACE STANDARDS:

As per ALP policy D DM2, it is necessary to assess the proposal against the internal space standards set out in the Governments Technical Housing Standards (Nationally Described Space Standard) to determine if the buildings will be suitable for residential use.

The two storey, 2 bedroom dwelling with a Gross Internal Area (GIA) of approximately 80sqm would satisfy the minimum internal space standards set out in the Technical Housing Standards Nationally Described Space Standards (2015) which is 79sqm for a 2-storey 2 bedroom 4persons home. The two storey, 3 bedroom dwelling with GIA of approximately 99sqm would exceed the minimum internal space standards which is 93sqm for a 2-storey 3 bedroom 5 persons home. The two storey, 3 bedroom



dwelling with GIA of approximately 108sqm would exceed the minimum internal space standards which is 102sqm for a 2-storey 3 bedroom 6 persons home.

The Arun Design Guide stresses the design of new homes should provide clear delineation of public and private spaces. Section H.04 deals with Residential Outdoor Amenity: 'Amenity spaces should be of an appropriate size and shape to be usable and enjoyable. Private rear gardens should have a minimum depth of 10.5m. Submitted drawings show the provision of sufficient rear garden space for each dwelling which would satisfy the requirement of Arun Design Guide and comply with policies D DM1 & D DM2 and with the guidance in the NPPF (para. 130).

#### **HIGHWAYS, TRAFFIC AND PARKING**

The Arun Parking Standards Supplementary Planning Document, January 2020 states in Principle 1: 2.12 Parking provision should be sufficient to accommodate demand whilst exploiting the potential for sustainable travel, minimizing adverse effects on road safety, and avoiding increased on-street parking demand. In the interests of sustainability and as result of the Government's 'Road to Zero' strategy for at least 50% of new car sales to be ultra-low emission by 2030, electric vehicle (EV) charging points should be provided for all new homes.

According to ADC Parking Standards for a 2-3 bedroom property in this type of location (Parking Behaviour Zone 4) a minimum of 2 car parking spaces on site is required. The site plan shows 16 parking spaces which allows for 2 spaces per dwelling plus visitor spaces what would satisfy the requirement of the above standard. Cycle parking has been provided in the form of sheds in the rear gardens.

The access would be 5.4m wide to allow for 2 vehicles to pass clear of the highway. Visibility splays would be provided at 41.7m to the north and 41.5m to the south which are based on speeds surveys taken from the previous submission. Fencing either side of the access should also be no more than 0.6m for the first 5m to ensure visibility is maintained for vehicles entering and exiting the site access as well as the Tesco access. These splays should be included on the site plan. The required information has been provided by the applicant and WSCC the Highways re-consulted with no response received yet.

A bus stop is located at the northern side of the proposed access. This will need to be relocated further from the access to ensure buses do not stop in front of the access point. The relocation of the bus stop can be secured by way of suitable wording within the S278 Agreement with WSCC Transport Services for the site access.

A condition is also proposed to secure Electric Vehicle Charging Points EVCP.

The proposal would provide a safe and suitable access, adequate parking and EVCP provision, and would not give rise to unacceptable highways safety or operation impacts, subject to satisfactory comments from WSCC Highways

#### **PROTECTION OF TREES**

Paragraph 131 NPPF highlights the important contribution which trees make to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that appropriate measures are in place to secure the long term maintenance of newly planted trees, and that existing trees are retained wherever possible.

Policy ENV DM3 of the Local Plan in section 17.3.1 underlines the importance of trees. The retention of mature trees can contribute to amenity and more attractive developments as well as retaining important

wildlife habitats and should be considered at the design stage of all developments.

The BNDP policy ES6 points out the positive contribution of trees to the Parish, play areas and residential properties and advises that the removal of trees to make way for development can completely change the amenities of a road and must be resisted.

The Tree Officer is of opinion that Tree Survey data is comprehensive and accords with the requirements of BS5837:2012, agrees with the retention category ratings and recommend the proposed scheme for approval, subject to conditions.

The Greenspace Officer pointed out in their report that existing trees and hedging in and adjoining the site which would need to be considered, protected retained and incorporated into a meaningful landscape setting.

The development would comply with policies ENV DM3 and ENV DM4 of the Arun Local Plan, policy ES6 of the Bersted Neighbourhood Development Plan and NPPF's paragraph 131.

#### **BIODIVERSITY:**

ALP policy ENV DM5 states: "Development schemes shall, in the first instance, seek to achieve a net gain in biodiversity and protect existing habitats on site. They shall also however incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing habitats (whether designated or not)."

Government guidance states permission can only be granted if an appropriate survey has been carried out by a qualified ecologist at the time of year specified in Natural England's standing advice. Planning permission can be refused if there is not enough information to assess the effect on a protected species. ALP policy ENV DM5 is clear that where there is evidence of a protected species on a site, planning applications shall include a detailed survey of the subject species, with details of mitigation to avoid loss of the species.

The southern part of the site comprises the former garden of a public house, the northern end of the site was previously used as the car park of the public house and was primarily hard standing with a hedge line along the western boundary, dominated by scrub and scattered trees. A Preliminary Ecological Appraisal dated May 2021 has been submitted. This does not show harm to protected species.

The potential impact on the location would require that landscaping be provided as mitigation towards screening and softening of the development. An existing green boundary is evident in places, but requires reinforcement with further boundary planting treatment to enhance and improve biodiversity.

In line with Policy ENV DM5 of the Arun District Local Plan information on Biodiversity Net Gain will need to be provided. A Biodiversity Metric Report should be submitted demonstrating what will be included within the scheme and what level of net gain will be created from this. This can be secured by a suitably worded planning condition.

#### **CLIMATE CHANGE/SUSTAINABLE CONTRUCTION:**

ALP policy ECC SP2 requires new residential and commercial development (including conversions, extensions, and changes of use) be energy efficient and incorporate decentralised, renewable, and low carbon energy supply systems. unless it is demonstrated this is unviable. ECC SP1 requires new development be designed to adapt to impacts arising from climate change.

The applicant in their Design and Access Statement affirms that this scheme has been designed around a standardised system incorporating MMC (the Government's new Modern Methods of Construction (MMC) Taskforce. All homes on this site will be 'A' rated under their Energy Performance Certificate. All manufacturing and design will be in accordance with Premier accreditation Guarantee.

As there are no particular technologies proposed, a condition would be necessary to secure compliance with the policy.

#### **WATER SUPPLY AND QUALITY:**

The Council, as stressed in policy W SP1, will support development that is appropriately located, taking account of flood risk and promotes the incorporation of appropriate measures and W DM3 states that all development must identify opportunities to incorporate a range of Sustainable Urban Drainage (SUDs) systems. The site lies in Flood Zone 1.

Policy ES2 of the BNDP requires surface water management measures for development proposals to ensure that the risk of flooding both on-site and downstream is not significantly increased.

Arun District Council's Drainage Engineers request further information and 2 pre-commencement and informatives to be applied.

The development therefore would comply with those aspects of policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan and policy ES2 of the BNDP.

#### **PAGHAM HARBOUR SPECIAL PROTECTION AREA:**

ALP policy ENV DM2 requires residential developments in a 400m to 5km distance ('Zone B') of Pagham Harbour make a financial contribution towards the provision of accessible natural open green spaces to serve the area. A contribution of £871 per new unit was agreed by the Council's Cabinet on 10 April 2017. The site lies in the designated Zone B and this application results in a net increase in a slight intensification in occupancy.

The net increase in 6 units resulted in a contribution of £5,226 and this is secured by the signed Section 106 legal agreement. There is no conflict with ALP policy ENV DM2 of the Arun Local Plan.

Arun DC are required to carry out an Appropriate Assessment (AA) to assess the impact of increased recreational disturbance arising from the proposal on the Pagham Harbour Special Protection Area (SPA) & Ramsar Site. An AA was issued to Natural England for review on the 22 July 2022 with a request for a response within 10 days. Natural England's response will be reported to the committee by report update.

#### **OTHER MATERIAL CONSIDERATIONS:**

On the basis of the Council's Authority Monitoring Report (AMR) from January 2022, the policies most important for the determination in the ALP have reduced weight as Arun cannot demonstrate an adequate supply of housing land (HLS). Due to the HLS being below 3 years (2.42 years) and its age, the BRNDP does not benefit from the support set out in para 14 of the NPPF. The NPPF presumption in favour of sustainable development is therefore unaffected by the Neighbourhood Plan.

Paragraph 11 (d) ii) of the NPPF 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 housing applications, where the Council cannot demonstrate a five year supply of deliverable housing sites),

planning permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

The NPPF contains several material considerations. Paragraph 119 requires planning policies and decisions promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Paragraph 121 instructs local planning authorities to take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs. In its latest revision on 20 July 2021, the Government significantly strengthened its position on the use and application of design guides in the determination of planning applications. Specifically, para 128 now makes clear that "to provide maximum clarity about design expectations at an early stage, all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, which reflect local character and design preferences." In this instance, the LPA has undertaken this extensive work which aligns with the requirements of the NPPF.

Para 129 of the NPPF details how such Design Guides should be applied at decision taking level: "Design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as a supplementary planning document". In this instance, the ADC Design Guide comprises a formally adopted SPD. Following para 129, it carries weight in decision-making. Paragraph 130 calls for visually attractive development which promote health and well being.

## CONCLUSION

This proposal represents an appropriate redevelopment of the site without compromising the visual amenity of the area amenities of neighbouring residential occupiers. The proposal represents sustainable development and is substantially in accordance with both the strategic and detailed policy requirements of the Development Plan.

This report has balanced the impact of development against other material considerations, including that of the NPPF, and it is considered that there are no adverse impacts associated with the proposed development that would significantly and demonstrably outweigh the benefits of the proposed development when the Development Plan and the NPPF are taken as a whole.

The application is therefore recommended for approval subject to a legal agreement and conditions.

## 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) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval 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 decision will be granted with a s106 legal agreement relating to a contribution of £5,226 towards the cost of delivering measures to avoid or mitigate to an acceptable level, the harm caused to the Pagham Harbour Special Protection Area by the proposed intensification of the existing building.

**CIL DETAILS**

This application is CIL Liable therefore developer contributions towards infrastructure will be required (dependant on any exemptions or relief that may apply)

**RECOMMENDATION**

APPROVE WITH SECTION 106 AGREEMENT

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

Z0512 NOV 00 00 DR A 02000 Rev P5, Location and Block Plan;  
 Z0512 NOV 00 00 DR A 02002 Rev P11, Revised Site Plan;  
 Z0514 NOV 02 XX DR A 04000 Rev P4, Elevations Block B;  
 Z0512 NOV 01 XX DR A 04001 Rev P2, Elevations Block A;  
 Z0512 NOV 00 XX DR A 02005 Rev P1, Sections through No.28 and 30, Sun Park Close;  
 Z0514 NOV 02 XX DR A 03000 Rev P4, Floor Plans - Block B;  
 Z0512 NOV 01 XX DR A 03001 Rev P2, Floor Plans - Block A;  
 Z0514 NOV 02 XX DR A 05000 Rev P2, GA Sections - Block B;  
 Z0512 NOV 01 XX DR A 05001 Rev P2, GA Sections - Block A.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan.

- 3 No development above damp proof course (DPC) level shall take place unless and until a schedule of materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity/setting of the Listed Building/ by endeavouring to achieve a building of visual quality in accordance with policy D DM1 of the Arun Local Plan.

- 4 No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use and in accordance with policy T DM1 of the Arun Local Plan.

- 5 Prior to the occupation of the dwellings, a scheme for the provision of facilities to enable the charging of electric vehicles to serve the approved dwellings shall be submitted to the Local Planning Authority for approval and thereafter implemented in accordance with the approved details and the charge points shall thereafter be permanently retained and maintained in good working condition.

Reason: New petrol, diesel and hybrid cars/vans will not be sold beyond 2035, and to mitigate against any potential adverse impact of the development on local air quality, in accordance with policy QE DM3 (c) of the Arun Local Plan, the Arun Parking Standards SPD and the National Planning Policy Framework.

- 6 No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide alternative travel options to the use of the car in accordance with policies T SP1 of the Arun Local Plan.

- 7 Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Design considerations must take full account of the 'Supplementary Requirements for Surface Water Drainage Proposals' produced by Arun District Council, and are an overriding factor in terms of requirements. Winter groundwater monitoring to establish highest annual ground water levels and winter percolation testing to BRE 365, or similar approved, will be required to support the design of any infiltration drainage. No building / No part of the extended building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan. This is required to be a pre-commencement condition because it is necessary to implement the surface water drainage system prior to commencing any building works.

- 8 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure that the proposed development is satisfactorily drained in accordance with policies W DM1, W DM2 and W DM3 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition to ensure that the future maintenance and funding arrangements for the surface water disposal scheme are agreed before construction commences.

- 9 Prior to the commencement of the development hereby approved, a scheme to demonstrate that the internal noise levels within the residential units will conform to the "Indoor ambient noise levels for dwellings" guideline values specified within Table 4 under section 7.7.2 of BS 8233:2014 shall be submitted. Details shall be compiled by a competent acoustician on sound insulation and noise reduction for buildings and shall be submitted to and approved in writing by the Local Planning Authority. The scheme should be written with reference to the 'Acoustics Ventilation and Overheating Residential Design Guide' from the Institute of Acoustics and take into account the correct number of air changes required for noise affected rooms and the noise caused by any mechanical ventilation. The works specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: To protect the amenity of local residents in accordance with Policy QE DM1 of the Arun Local Plan.

- 10 Before the site is occupied or any machinery is introduced to the site or demolition work or construction work or alterations to existing ground levels takes place, written confirmation is required from the Arboricultural Expert representing the site owner(s), confirming that all protective fencing has been inspected and found to be 'Fit for Purpose' as required under British Standard 5837:2012 and been erected and positioned exactly as shown on the Tree Protection Plan, ref. 20219-3, Barrell Tree Consultancy.

Reasons: To comply with BS5837:2012 and ensure the retention and maintenance of trees and vegetation which are an important feature of the area, in accordance with Policy D DM1 of the Arun Local Plan. It is considered necessary for this to be a pre-commencement condition as the protection and retention of trees goes to the heart of the planning permission.

- 11 All activity at the site is to be carried out in strict accordance with: - Arboricultural Assessment & Method Statement, ref. 20219-AA3-CA, 16th May 2022.

If there is deemed to be a need for any Utility Service Route connections to bisect retained tree Root Protection Areas/Zones, then prior to their installation a Method Statement prepared by an Arboricultural Expert must be submitted that stipulates how this can be achieved without adverse impact on tree roots. Written approval and confirmation of acceptance of this Methodology must be issued before any works are commenced out on site.

Reasons: To comply with BS5837:2012 and to ensure that retained trees are afforded due respect and appropriate levels of protection such that their ongoing health and vitality is not compromised, and they can continue to enhance the landscape and amenity of the area in accordance with policy ENV DM4 of the Arun Local Plan.

- 12 Potentially contaminated land: If during development, any visibly contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, no further development (unless otherwise expressly agreed in writing with the Local Planning Authority) shall be carried out until it has been fully investigated using suitably qualified independent consultant(s). The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement

detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

Reason: To protect the amenity of local residents in accordance with Policy QE DM4 of the Adopted Arun Local Plan 2011 - 2031.

- 13 Construction/demolition activities shall take place, other than between 08:00 to 18:00 hours (Monday to Friday) and 08:00 to 13:00 hours (Saturday) with no works taking place on Sunday or Bank Holidays unless they are not audible outside of the application site.

Reason: To protect the amenity of local residents in accordance with policies QE SP1 and QE DM1 of the Arun Local Plan

- 14 The dwellings shall not be occupied unless and until a scheme has been submitted for approval by the Local Planning Authority to demonstrate that the development will incorporate energy efficiency measures that reflect standards at the time of submission, together with decentralised, renewable and low carbon energy supply systems. The approved scheme shall thereafter be implemented prior to occupation and any approved renewable energy supply systems shall be permanently retained & maintained in good working order thereafter.

Reason: To ensure that the development is energy efficient and in accordance with policy ECC SP2 of the Arun Local Plan.

- 15 No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

Reason: In the interests of highway safety and the amenities of the area in accordance with policy TSP1 of the Arun Local Plan.

- 16 Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking or re-enacting this Order) no extensions (including porches or dormer windows) to the dwelling houses shall be constructed or buildings shall be erected within the curtilage unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To safeguard the privacy and amenity of adjoining occupiers, maintain adequate amenity space and safeguard the cohesive appearance of the development in accordance with policy D DM1 of the Arun Local Plan.

- 17 No development above damp proof course (DPC) level shall take place until there has been



submitted to, and approved by, the Local Planning Authority, a landscaping scheme including details of hard and soft landscaping and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development in accordance with policy D DM1 of the Arun Local Plan.

- 18 Within 3 months of commencement of development details of improvements to secure biodiversity net gain shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be completed within a month of 1st occupation of hereby approved dwellings and retained thereafter.

Reason: In accordance with Arun Local Plan policy ENV DM5 and the National Planning Policy Framework.

- 19 INFORMATIVE: Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The infiltration tests must be carried out in accordance with BRE365, CIRIA R156 or a similar approved method. All design storms must include a climate change allowance, as per <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>, on stored volumes or rainfall intensity. Infiltration structures must cater for the critical 1 in 10 year storm event, (plus40%) between the invert of the entry pipe to the soakaway and the base of the structure. All surface water drainage designs must also have provision to ensure there is capacity in the system to contain the critical 1 in 100 year storm event (plus 45%).

Freeboard is to be provided between the base of the infiltration structure and the highest recorded groundwater level identified in that location. Ideally this should be 1 metre where possible, as stated in the CIRIA Suds Manual guidance. However, on the coastal plain in particular, where geology dictates and where shallow perched/tidally influenced water tables are often present, this is unlikely to be achievable irrespective of this, infiltration must still be fully considered. Therefore, to maximise this potential and avoid utilising other less favourable methods of surface water disposal, the bases of infiltration structures are permitted to be immediately above the peak recorded groundwater levels where it is deemed necessary.

In areas where an aquifer is to be protected (subject to guidance from the Environment Agency) then a minimum 1 metre freeboard must be provided.

Suitable water treatment is required upstream to the point of discharge in all circumstances to minimise any groundwater pollution risk or detriment to the drainage network.

Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest groundwater table in support of the design. The applicant is advised to discuss the extend of ground water monitoring with the council's engineers.

Supplementary guidance notes regarding surface water drainage are located at <https://www.arun.gov.uk/drainage-planning-consultations> on Arun District Council's website. A surface water drainage checklist is available on Arun District Council's website, this should be

submitted with a Discharge of Conditions Application. Reference should also be made to the 'West Sussex LLFA Policy for the Management of Surface Water'.

20      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 within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

21      INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information please contact the Environmental Health Department on (01903) 737555.

The applicant's attention is drawn to the requirements of the Environmental Protection Act 1990 and the Clean Air Act 1993 with regard to burning on site. A 'Statutory Nuisance' may be caused by smoke and ash from fires or noise from the cutting or chipping of trees. In addition, air quality could be adversely affected on large projects. The granting of this planning permission does not permit a statutory nuisance to be caused. The Environment Agency should also be contacted regarding Exemption Permits to burn on site.

<b>BACKGROUND PAPERS</b>
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[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

**BE/57/22/PL - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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