

**PLANNING APPLICATION REPORT**

**REF NO:** M/24/19/PL

**LOCATION:** 3 The Hard  
Elmer  
PO22 6JS

**PROPOSAL:** Replacement residential dwelling. This application may affect a Public Right of Way.

**SITE AND SURROUNDINGS**

**DESCRIPTION OF APPLICATION**

The proposal is to demolish the existing traditional bungalow and replace it with a two storey modern designed, 3 bedroomed dwelling incorporating 3 parking external car parking spaces (1 in a car port formed by the overhang of a first floor bedroom) with an additional single storey utility building to the rear of the property and garden shed.

The secondary flood defence bund in the garden would be retained.

Notable features of this modern designed dwellinghouse are horizontal light well windows illuminating the first floor on the front elevation (north facing), two lean to zinc roofs in opposing directions forming the roof overall, a Juliet balcony and a conventional balcony to the rear first floor bedrooms and materials of smooth light grey render at ground floor, western red cedar cladding at first floor floor and a terne coated zinc metallic panelled roof.

**SITE AREA**

615 sq.m.

**RESIDENTIAL DEVELOPMENT** 16 dwellings per hectare.

**DENSITY (NET)**

**TOPOGRAPHY**

Predominantly flat with a 1.2 metre high bund in the centre of the rear garden.

**TREES**

None affected by the proposed development.

**BOUNDARY TREATMENT**

Close boarded wooden fences to the side of the garden with a 2 metre wall and gate at the rear accessing onto a public footpath and the beach hinterland including a public landscaped 5 metre high flood defence bund. Open to the road frontage on The Hard.

**SITE CHARACTERISTICS**

The application site comprises an existing single storey timber framed beach house. This is one of the last remaining of the old style holiday cottage bungalows in the beach front strip of detached bespoke designed properties along The Hard, Elmer Court and Sea Way.

The site faces toward the a landscaped flood defence bund at the rear.

The dwellinghouse has a 30 metre long rear garden with a secondary flood defence bund which runs through all the rear gardens on the south side of The Hard and neighbouring beach front properties nearby.

**CHARACTER OF LOCALITY**

The area is a residential private estate at the far eastern end of Elmer which fronts the beach. The character of the area is of a suburban residential beach side area comprising detached bungalows, two/three storey semi-detached and detached properties of a wide variety of designs.

**REPRESENTATIONS**

**REPRESENTATIONS RECEIVED:**

Middleton Parish Council

Objection on the grounds of:

- Overall mass, height and scale out of keeping with surrounding properties.
- Concerns over risk of flooding.

2 neighbour objection and an objection from the estate association Elmer Sands Limited on the grounds that the removal of a mound/bund shown as a garden feature would remove part of the local sea defences.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

The issue of flood defences has been addressed by an amendment to the application retaining the secondary defence bund as it currently exists. The issues of character, mass height and scale are addressed in the conclusions section of the report below.

**CONSULTATIONS**

Engineering Services Manager

Engineers (Drainage)

Southern Water Planning

WSCC Strategic Planning

Environmental Health

Ecology Advisor

Environment Agency

**CONSULTATION RESPONSES RECEIVED:**

Environment Agency - No objection subject to a condition requiring that the bund in the garden is not reduced in size.

Southern Water - No objection.

ADC Drainage - No objection.

CDC Ecology - No objection.

WSCC Highways - No objection subject to standard conditions. The WSCC Public Rights of Way team provided comments requiring that the footpath to the rear of the site remains undisturbed.

ADC - Environmental Health - No objection. Subject to a condition relating to hours of construction.

#### **COMMENTS ON CONSULTATION RESPONSES:**

Comments noted. Hours of work condition not necessary as this is a matter that can be controlled under separate legislation. The disturbance of a designated footpath is also controlled by separate legislation. There is no need to impose a cycle parking condition as requested by County Highways as the revised plan satisfactorily provides for it.

#### **POLICY CONTEXT**

Designation applicable to site:

Within built up area boundary.

#### **DEVELOPMENT PLAN POLICES**

##### Arun Local Plan 2011 - 2031:

SDSP2	SD SP2 Built-up Area Boundary
DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ECCSP1	ECC SP1 Adapting to Climate Change
ECCSP2	ECC SP2 Energy and climate change mitigation
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems
WMMDM1	WM DM1 Waste Management
ENVDM5	ENV DM5 Development and biodiversity
WSP1	W SP1 Water
QEDM2	QE DM2 Light pollution
TSP1	T SP1 Transport and Development

#### **PLANNING POLICY GUIDANCE:**

NPPG	National Planning Practice Guidance
NPPF	National Planning Policy Framework

#### **POLICY COMMENTARY**

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

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

### **The Neighbourhood Development Plan**

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area.

Middleton does not currently have a Neighbourhood Plan.

### **DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND**

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

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

The proposal is considered to comply with relevant Development Plan policies in that whilst the proposal will impact on the visual amenities of the locality and the residential amenities of the adjoining properties, that impact will not be significant.

### **OTHER MATERIAL CONSIDERATIONS**

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

### **CONCLUSIONS**

#### **PRINCIPLE**

The site lies within the built up area boundary where development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan 2011-2031 subject to other policies of the Arun Local Plan covering such issues as visual amenity/character, residential amenity, highway safety and parking.

Further, the NPPF generally seeks to promote effective use of all land (para 117) and gives weight to proposals that develop under-utilised land (para 118(d)).

#### **CHARACTER AND DESIGN.**

Policy D DM1 of the Arun Local Plan 2011-2031 (ALP) requires that the Council have regard to certain aspects including character, appearance/attractiveness, density, and scale.

Furthermore, policy D SP1 "Design" states that development proposals should make efficient use of land but reflect the characteristics of the site and local area.

The key points regarding the proposed dwelling are that:

- The site and surroundings have been fully appraised via the Design and Access Statement and findings reflected in the design.
- There is a great variety of different styles of detached houses in the locality which developed in an

incremental way historically for use as holiday homes. In more recent times the properties in the area have been developed as permanent residential homes.

- The height, scale and mass of the property would be comparable to the next door properties and would not be in excess of the scale of nearby properties in the area such as 4 Elmer Court and 1 Sea Way which is a modern art deco style three storey property.

The area is characterised by bespoke designed properties covering a variety of design styles from the 20th century including Bauhaus style and 1920's art deco styled properties such that the proposed contemporary design is not considered out of character in the local area but rather responds to it.

The use of high quality materials used elsewhere in the neighbourhood on other dwellinghouses means that the proposed dwelling would not look out of keeping with surrounding properties.

The proposed new dwelling represents a significant improvement in the energy efficiency of the dwellinghouse and incorporates climate change mitigation measures including a raised ground floor height for additional flood protection, an electric car charging point as well as utilising the south elevation for significant solar gain.

Having regard to the size, scale, massing and overall design of the proposed dwelling, it is considered that the proposed dwelling would not have a detrimental impact on the street scene, public areas of the beach and wider area. The proposal is therefore considered to comply with policies D SP1 and D DM1 of the Arun Local Plan.

#### RESIDENTIAL AMENITY

Arun Local Plan 2011-2031 policy D DM1 requires that the Council have regard to certain criteria when considering the impact of new developments on neighbouring properties which include avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance.

Regard should be had to paragraph 127 of the NPPF which states that Planning policies and decisions should ensure that developments should ensure a high standard of amenity for existing and future users.

The footprint of the proposed dwellinghouse and the absence of any clear glazed windows on the side elevations at first floor level would prevent any adverse impacts on privacy or overbearing impact to the 2 and 4 The Hard, two chalet bungalows on either side. The southern aspect of the rear elevation would ensure that no loss of sunlight or daylight would occur as a result of the development the sun being located in the southern half of the skies throughout the year.

A condition would be applied ensuring all windows on the side elevation at first floor level would be obscure glazed and non opening below 1.7 metres in height.

The Council uses the 45 degree rule in which new built development should not encroach within a 45 degree line drawn from the centre of the neighbours windows in order to avoid a loss of outlook, overbearing impacts and a loss of light to those properties. The proposed development does not breach this 45 degree rule.

No. 4 the Hard does have west side facing windows (directly toward the proposed two storey side elevation of the proposed dwelling) which serve a living room at ground floor level and a bedroom at first floor level. However these are secondary windows and whilst noting that they are only separated from the proposed dwelling by 1.2 metres there are other additional primary windows serving the same rooms facing south and thereby precluding any significant adverse impact on loss of light and overbearing impact on those rooms.

No. 2 The Hard would have a sole east facing, obscure glazed, bathroom window at first floor level facing the side elevation of the new development. However this is not considered to be a primary habitable room window and the impacts on residential amenity are not therefore considered significant.

The separate utility room building to the rear of the main property would abut the boundary with 2 The Hard to the west. With a flat roof of a height of 2.8 metres, just 30 centimetres above what could be constructed under permitted development rights without specific planning permission, it would not have a significant impact on the privacy or an overly dominate the rear garden areas of the neighbouring property.

Both 2 and 4 The Hard have balconies on the rear elevations and as such the impact of the proposed Juliet and master bedroom balcony would not significantly alter the privacy of the rear parts of the gardens of all 3 dwellings. A 1.7 metre high obscure glazed privacy screen on the east side would ensure the privacy of the rear elevations and garden areas immediately to the rear of their back doors as well as privacy of the occupants of the new dwelling. A solid wall would work as a balcony screen on the east facing side of the balcony is proposed toward 4 The Hard.

In summary it is not considered that the proposed development would cause a significant loss of residential amenity to neighbouring properties and it is considered to comply with policy D DM1 of the Arun Local Plan and para. 127 of the NPPF.

#### SPACE STANDARDS

In terms of the internal space requirements Policy D DM2 of the ALP states that: "The planning authority will require internal spaces to be of an appropriate size to meet the requirements of all occupants and their changing needs. Nationally Described Space Standards will provide guidance".

For a 3 bedrooomed, property occupied by 6 people as proposed the national space standards state a required minimum gross internal floor area of 102 sq.m. including a minimum of 2.0 metres allocated as built in storage. From an assessment of the submitted floor plans the dwelling would have a gross internal floor area of 152 sq.m..

As such, the proposed dwelling would comply with the internal space standards as set out in the 'Technical housing standards - nationally described space standard (2015)' and Policy D DM2 of the Arun Local Plan 2011-2031.

In respect of outside amenity space the proposal includes a rear garden length of 30 metres across the width of the plot which is considered acceptable.

#### PARKING AND HIGHWAY SAFETY

Arun Local Plan 2011-2031 Policy T SP1 seeks to ensure that development provides safe access on to the highway network; contributes to highway improvements & promotes sustainable transport, including the use of low emission fuels, public transport improvements and the cycle, pedestrian and bridleway network. In respect of parking, it states that:

"The Council will support transport in development which provides parking provision that accords with the West Sussex County Council guidance."

In respect of highway safety, it states that transport and development proposals relating to new development need to demonstrate how it will provide efficient and safe access onto and off site that prioritises pedestrians and cyclists, maximising access to public transport facilities.

Regard should also be had to paragraph 109 of the National Planning Policy Framework (NPPF) which

states that development should only be prevented where the residual cumulative impacts on the road network would be severe.

West Sussex County Council Highways Department have assessed the scheme and consider it has a suitable access arrangement, it would not have 'severe' impact on the operation of the Highway network and complies with the WSCC car parking demand calculator. They have requested that conditions be applied with respect to the provision of cycle parking and the laying out of the car parking prior to the occupation of the development.

The agents have provided details of the cycle parking in the rear shed including a ground anchor bolted down to the floor slab.

It is considered that the proposal is in accordance with policy T SP1 of the Arun Local Plan and the NPPF.

#### **FLOODING AND SURFACE WATER DRAINAGE**

A flood risk assessment has been submitted with the application and the applicants have amended the application to include the retention of the secondary flood defence bund. Subject to conditions setting the minimum finished floor levels and the retention of the secondary flood defence bund there are no objections to the development from the Environment Agency nor the Arun District Council Engineers and therefore the proposal complies with policy W DM2 of the Arun Local Plan.

The proposed development replaces a dwelling with a similar roof profile and would not create any additional demand for surface water drainage capacity. Some measures are proposed to ensure the soaking away of surface water such as the inclusion of permeable driveways have been incorporated within the scheme. Arun District Council Engineers have made no objection to the scheme for this reason provided it complies with building regulations relating to surface water drainage. The proposal is considered to comply with policies W SP1 and W DM3 of the Arun Local Plan.

#### **BIODIVERSITY AND LIGHTING**

The Council Ecologist has no objections to the scheme subject to a condition seeking a lighting scheme that would 'avoid unnecessary artificial light spill through the use of directional light sources and shielding' and has requested an informative be applied relating to the disturbance of natural vegetation and nesting birds during the construction of the scheme provided.

The agent has included the provision of bird and bat boxes attached to the rear shed and independent ones in the rear garden.

Subject to the proposed conditions the proposed scheme complies with policy ENVDM5 relating to development and biodiversity and policy QE DM2 of the Arun Local Plan in relation to light pollution.

#### **SUMMARY**

This proposal is considered to represent an efficient use of urban brownfield land without harming the visual amenity of the area, highway safety or the amenities of existing residential occupiers. It is therefore recommended that permission be granted subject to the following 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.

## RECOMMENDATION

APPROVE CONDITIONALLY

- 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:

Dwg.no. - PL002 Rev B - Proposed Elevations, Roof Plan & Sections dated 10.05.19.

Dwg.no. - PL001 Rev B - Proposed Plans, & Site Plan dated 10.05.19.

Construction and other details received in email from Michael Wood - 10 May 2019 11:44

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 and D SP1 of the Arun Local Plan.

- 3 No development shall be commenced until such time as plans and details have been submitted to and approved in writing by the Local Planning Authority showing the site set up during construction. This shall include details for all temporary contractors buildings, plant and stacks of materials, provision for the temporary parking of contractors vehicles and the loading and unloading of vehicles associated with the implementation of this development. Such provision once approved and implemented shall be retained throughout the period of construction.

Reason: In the interests of the amenity of nearby residents & occupiers of any nearby noise sensitive premises, the general amenities of the area and in the interests of highway safety in accordance with policies D DM1, QE SP1 and T SP1 of the Arun Local Plan and the National Planning Policy Framework. This is required to be a pre- commencement condition because it is necessary to have the site set-up agreed prior to access by construction traffic.

4 No part of the development shall be first occupied unless and until the applicant has submitted a scheme for approval by the Local Planning Authority to demonstrate that the development will achieve energy efficiency measures that reflect the current standards applicable at the time of submission and includes the use of renewable energy supply systems. The approved scheme shall thereafter be implemented prior to occupation of the residential unit 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.

5 External lighting in association with this development shall comply with Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light, Obtrusive Light Limitations for Exterior Lighting Installations for Zone E and to avoid unnecessary light overspill which may adversely affect biodiversity.

Reason: To control the residential amenities of the local environment in accordance with Arun Local Plan policies QE SP1, QE DM2 and ENV DM5.

6 The development shall be carried out in accordance with the submitted flood risk assessment (February 2019, Sloane and Brown) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 2.85 m above Ordnance Datum (AOD).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with policy W DM2 of the Arun Local Plan.

7 No reduction in the height of the secondary flood bund shall be undertaken. The bund is referred to as the existing or retained bund and shall be retained at an AOD height of 3.24 metres in perpetuity as shown on the following approved plans:

Dwg.no. - PL002 Rev A - Proposed Elevations, Roof Plan & Sections dated 23.04.19

Dwg.no. - PL001 Rev A - Proposed Plans, & Site Plan dated 23.04.19

Reason: To reduce flood risk in accordance with policy W DM2 of the Arun Local Plan.

8 INFORMATIVE: We strongly recommend the use of flood proofing and resilience measures. Physical barriers, raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage.

To find out which measures will be effective for this development, please contact your building control department. In the meantime, if you'd like to find out more about reducing flood damage, visit the flood risk and coastal change pages of the planning practice guidance.

The following documents may also be useful:

Department for Communities and Local Government: Preparing for floods  
<http://www.planningportal.gov.uk/uploads/odpm/4000000009282.pdf>

Department for Communities and Local Government: Improving the flood performance of new buildings:

<http://www.communities.gov.uk/publications/planningandbuilding/improvingflood>

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The planning practice guidance to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you consult with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with the guiding principles of the Planning Practice Guidance (PPG).

- 9 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.
- 10 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc ) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0845 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.
- 11 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.
- 12 A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk). Please read our New Connections Services Charging Arrangements documents which is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructurecharges>.

**M/24/19/PL - Indicative Location Plan (Do not Scale or Copy)**  
**(All plans face north unless otherwise indicated with a north point)**



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