**Neighbours checked: Y**

**Additional neighbour notifications: N**

**Proposal, Site and Surroundings**
The application relates to a large detached house located on the south side of the road, backing directly onto the Widewater Lagoon. The house fronts Brighton Road and has the appearance of a three-storey dwelling with vehicular access and integral garage. To the rear the dwelling is two-storeys with access directly out onto a patio garden which steps down over the flood defence bank, to the Widewater.

Retrospective permission is sought for the creation of a self contained two-bedroom ground floor flat, with west side covered way and entrance lobby. The self-contained flat is currently occupied and Council Tax has been collected since 1st April 2010. The flat is arranged with two bedrooms on the west of the floor plan, lounge to the front with window looking north, and bathroom and kitchen on the east side.

The upper maisonette is now accessed via the existing east side staircase, which leads to the rear garden. The integral garage remains in the control of the upper maisonette.

The surrounding area is of mixed character, with a number of bungalows and houses opposite. The southern side of the road, has a number of plots which have been subject to development resulting in a more dense number of dwellings per plot. All the developments within recent years are for townhouses with ground floor garaging and parking for cars, as a result of the flood risks of the sites. The application dwelling is a common form of house, being an earlier design than those developed in the town house style. The dwelling is clad with weatherboarding and has high front and rear gables. Originally the ground floor had access to the upper floors by means of an internal staircase. No original floor plans have been submitted with the application to show the exact layout, however it is thought that the rooms would have been entirely ancillary to the original single dwellinghouse.

**Relevant History**
ABC/0457/06 – Garage conversion (part) and internal alterations to create bathroom and 3 additional bedrooms.
ABC/0086/07 – Rewiring of dwellinghouse.
ABC/1585/07 – Installation of gas boiler.
AWEN/0154/11 – Unauthorised Use – Conversion to 2 flats.

**Consultations**

***West Sussex County Council:*** The Highways Officer states from an inspection of the plans alone, there is no apparent visibility issue at the point of access onto Brighton Road. WSCC notes that the prevailing parking

arrangements are to park vehicles parallel to the carriageway adjacent to the building. Although partly on non-maintainable land, vehicles are overhanging onto the publicly maintainable footway thereby potentially causing an obstruction. However since this custom appears to have been in use for a period of time it would be difficult to resist these actions. The most recently available verified accident records reveal there have been no personal injury accidents in the vicinity of the existing point of access, indicating a low risk of highway safety issues with this proposal.

If the LPA are minded to approve this application, a condition securing secure cycle storage should be included.

***Environment Agency:*** In the absence of a Flood Risk Assessment (FRA), the EA objects to the application and recommend refusal of planning permission on this basis for that the application site lies within Flood Zone 3 defined by Planning Policy Statement 25 – "Development and Flood Risk" (PPS25) as having a high probability of flooding. Paragraph E9 of PPS25 requires applicants for planning permission to submit an FRA when development is proposed in such locations. In the absence of an FRA, the flood risks resulting from the proposed development are unknown, and an informed decision on the proposed development cannot therefore be made. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission. This reflects the precautionary approach to development in flood risk areas set out in paragraphs 10 and E9 of PPS25.

The EA also note that, before any FRA is undertaken, they consider it is highly unlikely that any FRA would be able to demonstrate that the development will be safe from flooding due to the potential flood depths that may occur should any flooding take place. They recommend that the applicant seriously consider this before engaging the services of any suitably qualified engineer etc. as this may result in considerable costs.

The Environment Agency objection is necessary to ensure the development complies with the principles of PPS25.

***Adur District Council:*** The Environmental Health Officer has made no comments regarding the application.

***Lancing Parish Council:*** No objections.

**Representations**

***Third Parties:*** There have been no neighbour objections received.

**Relevant Planning Policies and Guidance**
The South East Plan 2006-2026 (GOSE 2009): SCT1, SCT5, SP3, CC6, H1, H5, BE1-2.

Adur District Local Plan (saved policies): AG1, AH2, AH5, and Appendix 11
'Supplementary Planning Guidance' comprising Development Control Standard No. 2 'Space Around New Dwellings and Flats'
'Good Practice Guidance Note: Internal Space Standards for New Homes' (ADC 2010)
PPS1 'Delivering Sustainable Development' (ODPM 2005)
PPS3 'Housing' (DCLG 2006, amended 2010)
PPS25 'Planning and Flood Risk' (ODPM 2006)
Circular 10/97: Enforcing planning control: legislative provisions and procedural requirements

**Planning Assessment**

***Legal Interpretation***
The application has been submitted by as a result of an enforcement enquiry (AWEN/0154/11) for the unauthorised change of use. The applicant has not been able to gather evidence at this stage which supports the application for a Lawful Development Certificate for the existing use. The applicant's agent maintains that the ground floor has been rented out to the occupiers for 4 years, however the removal of the internal connecting stairs, and addition of the fitted kitchen happened only relatively recently.

The Councils Solicitor states that they would conclude than the change of use of the ground floor of the building, into a separate dwelling, occurred the date that the sub-division of the two dwellings happened, however this is not necessarily the date that the ground floor was rented out from.

Council Tax records show that there are two records for payments of Council tax from the site, one starting more recently than the other. The first payment history begins on 1st April 1993 and can be considered to be form the main dwelling. The second begins on 1st April 2010 and more than likely represents the ground floor accommodation.

Circular 10/97 states that '*the criteria for determining use as a single dwellinghouse include both the physical condition of the premises and the manner of the use. Where a single, self-contained set of premises comprises a unit of occupation, which can be regarded as a separate "planning unit" from any other part of a building containing them; are designed or adapted for residential purposes, containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse; and are used as a dwelling, whether permanently or temporarily, by a single person or more than one person living together as, or like, a single family, those premises can properly be regarded as being in use as a single dwellinghouse for the purposes of the Act. This interpretation would exclude such uses as bed-sitting room accommodation, where the occupants share some communal facilities within a building, such as a bathroom or lavatory, and the "planning unit" is likely to be the whole building, in use for the purposes of multiple residential occupation, rather than each individual unit of accommodation'.*

On the basis that the facilities for living independently (i.e. kitchen, and removal of interconnecting stairs) were not in place until recently it is considered that a planning application is required for the change of use into a separate self-contained unit of accommodation.

***Flood Risk***
The application has been submitted with only Environment Agency (EA) 'Standing Advice', however the site is located within Flood Zone 3 which under guidance in PPS25 requires a full Flood Risk Assessment (FRA). The applicant has not provided adequate information for the EA to be able to understand the risk to occupiers from both tidal and fluvial flooding, if a flooding event were to happen in the locality. Notwithstanding the lack of an FRA, the EA states that given the predicted flood depths in the locality it is considered that it would not be possible to demonstrate that the occupiers of the flat would be safe from flooding, or have safe exit routes to dry ground.

Given that the application is retrospective, the standing advice given provides little additional information as to how the conversion was undertaken. No information as to the construction methods, whether moisture resistant types of materials have been used, and whether the conversion complies with Government Guidance 'Improving the flood performance of new buildings' (CLG 2007).

***Visual amenity***
Visually there appears to be no changes to the appearance of the property subject to this planning application. It is not stated when the conversion works were completed, however external alterations to the ground floor may have been undertaken prior to the use of the flat as a separate unit of accommodation. The uPVC windows of the ground floor flat are sympathetic to the window type through the remainder of the building. There is a covered lean-to porch to the west side of the building which is used as the main access to the ground floor flat. The porch has rendered elevations with a polycarbonate roof, but is not particularly out of keeping with the appearance of the rest of the building.

***Residential amenity of occupiers***
The development has resulted in the ground floor of the existing building being converted into a self contained two-bedroom flat, with its own access via the west side lean-to porch. The way in which the building is sited partially on the flood defence bank does have an acute impact on how the rooms are arranged, and the outlook that they have.

The flat itself has a floor area of 61.5sqm with an attached lean-to which is 9sqm in area, whilst the lean-to is not considered to be adequate for permanent occupation owing to the single block wall and polycarbonate roof, it is considered to contribute to the floor area, of the flat in that it provides valuable storage area, over and above the amount expected for a two-bedroom flat. The covered way provides space for the storage of bicycles, refuse and recycling, in addition to coat storage, a table and chairs and kitchen storage. It is therefore considered that the floor area would be

acceptable for the size of dwelling proposed. The covered way also provides access to the west side external stairs which in turn provide access to the shared rear garden, which at 144sqm is in excess of the minimum size required for the flat.

The individual rooms themselves are well decorated and appointed with modern facilities (fully fitted kitchen and family bathroom), and in the main they do meet the criteria set out in the above Good Practice Guidance Note, apart from the main bedroom which is 0.5m smaller than the 12sqm expected and is in part too narrow. However on the basis that the flat in general complies, it is considered that, on balance, the minimum internal spaces standards are met.

It is noted that the rooms themselves do have a particularly poor outlook in most cases, apart from the main lounge which faces north towards the main road. The west side bedroom and entrance hall face into the covered way, whereas the rear double bedroom faces directly onto the stairs at the side of the building. The kitchen and bathroom to the east both have an outlook which are towards the access passageway and stairs on the east of the building. It is felt that the side facing windows would get little direct natural light and the windows, which in some cases are particularly small, would provide a very poor quality outlook, towards the stairs, boundary walls or fence at the side of the building. However it is considered that the outlook to the rooms at the rear of the flat subject to this application are comparable with converted rooms in loft spaces, where high level roof-lights provide little outlook of consequence from inside of rooms, but do provide natural daylight.

Under the circumstances, and whilst it is acknowledged that the outlook from the kitchen and rear bedroom are poor, the rooms sizes do meet the minimum standards and are well appointed, the main lounge has a view towards the north, and the flat does have access to the rear shared garden which also has views of the Widewater Lagoon, that, on balance, the residential amenity of the occupiers is not so bad that it should warrant a reason for refusal.

***Accessibility and parking***

The site building addresses the street with a small 0.9m set-back from the public footpath at ground floor level, with the first floor partially overhanging. The set-back in front of the main living room window is used by the occupants of the ground floor flat for the parking of a car off of the road. The area in front of the existing garage is also in part used for parking. The street in front of the building does offer additional on-street parking without restrictions.

The West Sussex County Council Parking Demand tool shows that the additional dwelling results in a demand of 1 car parking space, whilst the existing integral garage satisfies the demand for the first and second floor maisonette.

The Highways Authority have made no objection to the subdivision on the grounds of lack of parking, due to there being a historic precedent to the parking at this site and others nearby, whereby the parked cars straddle both

the site and footpath. Given that WSCC accident records show no personal injuries in the vicinity of the site, it would be difficult to raise an objection on highway safety grounds to the retrospective development.

**Recommendation**

**REFUSE** for the reason(s):-

The application site lies within Flood Zone 3 defined by Planning Policy Statement 25 – "Development and Flood Risk" (PPS25) as having a high probability of flooding. In the absence of an FRA, the flood risks resulting from the proposed development are unknown, and an informed decision on the proposed development cannot therefore be made. The absence of an FRA is therefore sufficient reason in itself for a refusal of planning permission. This reflects the precautionary approach to development in flood risk areas set out in paragraphs 10 and E9 of PPS25.

Is recommendation contrary to any representations? N

Case Officer signed: C. Hone Date: 21.02.12.

Authorised and signed by: Keith Morgan Date: 21.02.2012