

REPORT UPDATE

Application No: BR/20/26/PL

Reason for the Update / Changes

Reason for Update/Changes: Comments received from WSCC Highways, raising no objection to the proposed change of use. A condition has been recommended requiring the provision of secure and covered cycle parking. As outlined in the report, provision of cycle parking spaces within the site is not feasible as there is no easy access to the rear garden, and therefore it is not recommended that the condition is added.

A completed S106 Unilateral Undertaking has now been received, securing the contribution to access management at Pagham Harbour SPA.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report.

Recommendation Report for Planning Permission

REF NO: BR/20/26/PL

LOCATION: 51a Aldwick Road
Bognor Regis
PO21 2NJ

PROPOSAL: Retention of change of use of first and second floor office to a 5 bed HMO. This application is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS	
DESCRIPTION OF APPLICATION	This application seeks the retention of a change of use of the first and second floor office to a 5 bed HMO.
SITE CHARACTERISTICS	First and second floor of a two and a half storey building. There is commercial floorspace on the ground floor of the property which is not affected by this application.
CHARACTER OF LOCALITY	The site is within a parade of shops, with retail and other commercial uses at ground floor level and a mix of residential and office uses at first and second floor level.

RELEVANT SITE HISTORY		
BR/135/97	Change of use of first and second floors to administration and educational purposes	ApproveConditionally 05-08-97

Planning history noted.

REPRESENTATIONS

Bognor Regis Town Council (BRTC) - Objection.

- The application is retrospective
- Intensification of use
- Overconcentration of HMOs
- Adverse impacts on neighbouring residents
- Increased parking demand
- Harm to shopping parade
- Unsuitable living environment for future occupiers
- Bin storage arrangement unsuitable

No representations were received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. Applications for planning permission may be made retrospectively and should be decided on their merits. The remaining issues raised by BRTC are addressed in the conclusions.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENTAL HEALTH - No objection subject to conditions

- Development is on a busy road in a mixed-use area with a variety of commercial properties close by.
- The development retains the ground floor commercial use and sound insulation may not comply with modern standards. If not properly considered, the existing noise climate will have a detrimental impact on the future occupants.
- Conditions recommended for a scheme for protecting the property from the existing noise climate.

NATURAL ENGLAND - No comments.

PRIVATE SECTOR HOUSING - Advice

- Comments on the compliance of the scheme with other legislation, including Housing Act 2004, The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006, The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018, Arun District Council's HMO Standards, Housing Health and Safety Rating System (England) Regulations 2005 and LACoRS national fire safety guidance.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:
Locally Listed Building
Article 4

Built Up Area Boundary
 Pagham Harbour Zone B
 2km Buffer for a Site of Special Scientific Interest (SSSI) (Bognor Reef)

DEVELOPMENT PLAN POLICIES

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
DDM4	D DM4 Extensions and alter to exist builds (res and non-res)
DSP1	D SP1 Design
EMPDM1	EMP DM1 Employment Land: Development Management
HSP4	H SP4 Houses in multiple occupation
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERSP1	HER SP1 The Historic Environment
ENVDM1	ENV DM1 Designated Sites of Biodiversity or geographical imp
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development

Bognor Regis Neighbourhood Plan 2015 Policy 2 Promoting the Seaside Identity

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

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

"If regard is to be had to the development plan for the purpose of any determination to be made under

the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is in conflict with relevant Development Plan policies in that it does not provide on-site car or cycle parking and results in the loss of the employment use. However, for the reasons discussed below, this conflict does not amount to sufficient reason to refuse the development.

The proposal otherwise complies with relevant Development Plan policies in that it provides housing without harming the visual amenities of the area or the relevant heritage assets, does not result in an unacceptable local overconcentration of HMOs, and provides sufficient residential amenity for occupiers.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

(a) the provisions of the development plan, so far as material to the application,

(aza) a post examination draft neighbourhood development plan, so far as material to the application,

(b) any local finance considerations, so far as material to the application, and

(c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

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

CONCLUSIONS

PRINCIPLE

The site is in the Built-up Area Boundary (BUAB) where development is acceptable in principle subject to the consideration of other relevant Development Plan policies in accordance with Arun Local Plan (ALP) Policy SD SP2.

On 18 January 2023, Arun District Council (ADC) confirmed a non-immediate Article 4 Direction to remove permitted development rights for the change of use from a dwellinghouse (C3) to an HMO for occupation by up to six persons living as a single household (C4). This came in to force on 19 January 2023. The area the Article 4 direction applies to the Marine ward in which the site is located.

The Article 4 Direction applies to wards where existing or future high concentrations of HMOs are considered likely to be harmful to the amenity or wellbeing of local residents and communities. The analysis supporting the Article 4 Direction showed that the percentage of the private rented sector in the Marine ward is 52.8% whilst the national average is 19%. Marine ward has approximately 193 HMOs, making up approximately 10% of the private rented housing stock, and had some of the highest levels of anti-social behaviour within the District within 2019-2020. Although the proposal is for a change of use from office space to an HMO and would require permission irrespective of the Article 4 direction, as the proposal would result in the introduction of a new HMO and is in Marine ward, the evidence base supporting the Article 4 Direction is a material consideration.

ALP Policy H SP4 states that where applications for HMOs are not covered by permitted development rights (removed in this case under Article 4 Direction) they will be favourably considered where proposals contribute to the creation of sustainable, inclusive, and mixed communities and meeting the detailed criteria as set out below:

- a. Do not adversely affect the character of the area including eroding the balance between different types of housing, including family housing.
- b. Do not contribute to the generation of excessive parking demands or traffic in an area.

c. Provide adequate areas of open space

As the application is for the creation of residential units, the NPPF presumption in favour of sustainable development is engaged.

LOSS OF OFFICE USE

ALP policy EMP DM1 states that employment sites and premises will be protected where there remains a reasonable prospect of employment use. It states applications which result in the loss of employment space will not be permitted unless it is demonstrated that the site is no longer required, and this should be demonstrated with clear evidence of marketing or viability appraisals. This application has not been accompanied by information regarding the proposed loss of the office space. However, the application seeks the change of use of the first and second floor of the building, with the ground floor remaining in commercial use. The change of use will therefore not impact the shopping parade at ground floor level, which reduces the harm resulting from the change of use.

The area of office space which would be lost is modest in size, and would provide moderate benefits for the local economy, the harm resulting from its loss therefore also afforded limited weight. Whilst the proposal would result in the loss of employment space, the proposed change of use would provide additional housing in the form of a 5-bed HMO. The council typically considers every three bedrooms in an HMO to equal one dwelling as an average, and the proposal would therefore provide an additional 1-2 housing units in a highly sustainable location.

The proposal has some limited conflict with ALP policy EMP DM1, however, the harm arising from this conflict is moderate. Given the benefits of the associated housing provision, the harms of this conflict would not significantly and demonstrably outweigh the benefits of the proposal. The conflict with ALP policy EMP DM1 would not form a reason for refusal of the application.

CHARACTER AND DESIGN

The application relates solely to the change of use, and does not propose external alterations.

ALP policy H SP4(a) requires that HMOs do not adversely affect the character of the area including eroding the balance between different types of housing, including family housing. The supporting text (12.5.1) states 'In providing for the housing needs for Arun, it is important to ensure that mixed and balanced communities are developed so that situations where existing communities become unbalanced by the narrowing of household types towards domination by a particular type, such as shared housing, are avoided.' Neither ALP policy H SP4 nor its supporting text set out a specific threshold or limit to the number/proportion of HMOs that would be acceptable. However, the council has received recent appeal decisions on this issue, which refer to the percentage of HMOs within a certain radius of the proposed HMO, which is typically 150-250m.

The following appeal decisions are relevant in this respect:

- BR/168/23/PL sought permission for the change of use of a dwelling to an HMO within Hotham Ward. The Inspector allowed the appeal and referred to less than 5% of properties within 250m of the site being HMOs as an acceptable threshold.
- BR/111/24/PL sought permission for the change of use of a dwelling to an HMO in Marine Ward. The Inspector allowed the appeal and identified HMOs to form less than 10% of the overall stock in the ward, and that, as less than 5% of properties within 150m of the site were HMOs, it was acceptable.
- LU/308/24/PL sought permission to convert a ground-floor unit into an HMO and one self-contained C3 flat, with minor physical alterations. The application was partly refused due to alleged HMO overconcentration and resulting character harm. At appeal, the scheme was dismissed solely on flood risk grounds; the Inspector did not support the Council's concerns about character impact. They found that only 12% of private rented homes in the River ward were HMOs, an amount not considered

significant or imbalanced. The Inspector also concluded that ASB could not be directly linked to HMOs and that a suitable management plan could help minimise any potential issues.

- APP/C3810/C/25/3360505 pertains to a recent appeal against an enforcement notice served on a property in River ward where the property was converted from a C3 Dwellinghouse to a C4 Small HMO contrary to the Article 4 direction. The grounds for the notice included harm to the character and appearance of the area (by virtue of an overconcentration of HMOs). The enforcement notice was quashed and planning permission granted, following conclusions that HMOs within 200m of the site equated to 2.5% of the private rented housing stock in the River ward and that this was not an overconcentration.

While officers recognise the evidence underpinning the Article 4 Direction, the appeal decisions above make clear that this does not mean all HMO applications in affected wards should be refused. Each proposal must be objectively assessed to determine whether it creates an actual overconcentration in its locality. Inspectors have consistently found that concentrations below 5% within a given radius (150-250m) do not amount to an overconcentration, and that 10-12% of private rented homes being HMOs at ward level does not automatically mean that there would be an overconcentration/imbalance at a local level. For a recent appeal decision in Hotham ward, Bognor Regis, where approx. 14% of the private housing stock within the ward are HMOs, the Inspector focussed clearly on a more localised assessment as the primary factor in their assessment of HMO concentration.

For consistency with previous appeal decisions, officers have undertaken an assessment of HMO numbers in a radius of 250m of the site. There are 986 dwellings within a 250m radius of 51a Aldwick Road, and 18 properties are shown as active HMOs on Council records. The percentage HMOs within a 250m radius of the site is 1.8%.

While the majority of HMOs in the radius have 3-10 No. occupants, there are some larger HMOs nearby, at 86 Aldwick Road and 41-45 Nyewood Lane. 41-45 Nyewood Lane has a maximum of 52 occupants and was allowed on appeal following a High Court appeal. 86 Aldwick Road provides accommodation for a maximum of 45 agricultural workers and is subject to a strict management plan. 41-45 Nyewood Lane is subject to a management plan. Whilst they do accommodate larger number of occupants, the management of these properties makes it less likely that these units would contribute significantly to the adverse social impacts often associated with an overconcentration of HMOs.

Whilst there are a number of HMOs nearby, the vast majority of residential properties in the area remain in C3 use as dwellings. Based on its assessment and the outcome of previous appeal decisions, this does not constitute a localised overconcentration or an imbalance of housing types and the change of use to a 5-bed HMO will not be unacceptably harmful or adversely affect the character of the area.

For the reasons outlined above, the application would not result in an overconcentration of HMOs, and would not harm the character of the area. The proposal is in accordance with ALP policy H SP4(a).

INTERNAL SPACE STANDARDS

ALP policy D DM2 requires internal spaces to be an appropriate size to meet all occupants and their changing needs. The Nationally Described Space Standard (NDSS) does not provide relevant standards for HMOs but the standards do provide an appropriate point of reference for an assessment of residential amenity and ALP policy D DM2 states that the NDSS will serve as guidance. ALP policy D DM2 states that where development cannot comply with all of the space standards, such as the conversion of an existing building, this will be assessed on a case by case basis.

For a new dwelling, the NDSS requires bedrooms for a single occupant to have an area of at least 7.5sqm and be at least 2.15m wide. Whilst some of the bedrooms are shown with double beds on the proposed plans, all bedrooms would be for a single occupant, and so the bedrooms have been assessed

against the standard for a single bedroom. Bedrooms 1 and 3 meet this standard, and bedrooms 4 and 5 fall slightly short at 7.1sqm. Bedroom 2 has an area of 5.9sqm, which is less than the recommended standards. As the NDSS are not directly applicable to HMO bedrooms, and the sizes of bedrooms in HMOS are controlled through the HMO licensing process, this is considered acceptable for the purposes of planning in this instance. A licence would be required for this HMO. The Private Sector Housing Team have commented in respect of various matters, including the size of bedrooms and communal areas. The applicant is encouraged to review these comments in full.

All bedrooms are served by a window and have adequate access to natural light.

The proposal provides external amenity space to the rear of the ground floor commercial unit. Section H of the ADG states that communal shared spaces, such as shared external amenity space, should be a minimum of 40sqm, plus 10sqm for each unit. The Local Planning Authority typically consider that every three rooms in an HMO constitutes one unit. The proposals would require approx. 60sqm of communal external amenity space. The area of the rear garden is approx. 59sqm, which is adequate. The site is in close proximity of public open spaces, in particular the sea front and gardens adjoining this area.

The proposal is in accordance with ALP policies QE SP1 and D DM2.

RESIDENTIAL AMENITY

Environmental Health raise concerns about the possible impact of noise from the ground floor commercial unit on future occupants of the HMO. Their response recommends a condition requiring details of proposed sound proofing measures. The conversion of the unit from offices to residential use would be subject to Building Regulations, and the level of sound insulation between the residential use at first floor level and the commercial unit below would be one of the matters considered under this process. For this reason, a condition relating to sound proofing is not recommended, as this would duplicate the requirements of the Building Regulations.

There are other dwellings at first and second floor level in the immediate vicinity of the site. The proposal would result in changes to the pattern of comings and goings from the property, and may result in some increased noise during the evening, although the use of the property during the day is likely to be less intensive than the current office use. While this may be noticeable to adjacent occupiers, the noise and activity would remain typical to those of a residential nature, and the site is in a dense urban environment with a mix of residential and various commercial uses. The likely increase would not be unusual or unexpected in this area, and would not be unduly harmful.

The proposal is in accordance with ALP Policies QE SP1, H SP4, and D DM1.

HERITAGE

The site is in a terrace which is a Building of Character which appears of the Local Planning Authority's local list. The building is a non-designated heritage asset, and paragraph 216 is relevant to this proposal. The application does not propose any external alterations to the building. The proposed change of use would not harm the significance of the non-designated heritage assets or their setting.

The proposal is in accordance with ALP policies HER SO1, HER DM2, Bognor Regis Neighbourhood Plan Policy 2 and the NPPF.

HIGHWAYS, TRANSPORT AND PARKING

The site is in a sustainable location within close proximity of Bognor Regis town centre, and with a wide range of services in walking distance of the site. The property is in walking distance of public transport, including both local bus services and the railway station, providing good links to wider public transport networks. In this respect, the proposal is in accordance with T SP1.

ALP policy H SP4(b) requires that HMOs do not contribute to the generation of excessive parking demands or traffic in an area. The proposal does not include any vehicular access or parking provision. This is currently the case on the site and the existing use as office space would generate parking demand. The Arun Parking Standards (2020) state that an area of office of this size should provide 4 car parking spaces (rounded up) and 1 cycle parking space. There is an existing shortfall of parking on the site.

The Arun Parking Standards have no specific category for HMO uses, but for an HMO, the WSCC Guidance on Parking for New Developments (September 2020) expects the provision of 0.5 car parking spaces per bedroom and 1 cycle parking space per unit. The Council considers 3 beds in an HMO equal to 1 housing unit (i.e. 1 dwelling). In this instance, the proposal would require 3 car parking spaces and 2 cycle parking spaces (rounded up) to comply with the WSCC standards. The parking demands of the proposed use are therefore similar to the existing use, being one less for car parking but one more cycle parking space, and no additional parking demand would be generated by the proposals.

The proposal is for residential accommodation which would be above an existing shop, and the lack of parking provision would not be uncommon for this type of development. On street parking is restricted immediately to the front of the property, however, some on-street parking would be available within the vicinity on roads to the north and south of Aldwick Road. Provision of secure and covered cycle parking on the site would be difficult, as there is no access to the external amenity space other than via the first floor HMO. The provision of cycle parking is not practical in this instance.

The property is close to the town centre, with easy access to services and public transport connections. The proposal would not have any unacceptable impact on highways parking capacity or safety. The proposal would not give rise to additional parking demand, when compared to the existing use of the site as offices. The proposal is in accordance with ALP policies T SP1 and H SP4(b) and NPPF Paragraph 116.

ECOLOGY, BIODIVERSITY AND PAGHAM HARBOUR

The site is in the zone of influence of the Pagham Harbour Special Protection Area (SPA). As the proposal is solely for a change of use, the potential for increased recreational pressures on Pagham Harbour as a result of increased residential occupation is the only significant impact on the SPA arising from the development.

The site lies within Pagham Harbour Zone B, where residential development is required to make a financial contribution to mitigate against potential recreational pressures. This must be secured by S.106 agreement and is currently set at £962 per residential unit. For HMOs, the council consider every three bedrooms to be one residential unit. At the time of writing this report, the draft S.106 Unilateral Undertaking to secure this contribution has been provided and is undergoing review by Legal Services. It is expected to be completed before the Planning Committee to which this application must proceed for determination. A report update will be provided ahead of the Committee on this matter.

The proposal is therefore in conflict with ALP policy ENV DM2 since the S.106 agreement to secure a financial contribution for the mitigation of potential recreational pressures has not been completed. Upon completion of the agreement, the proposal will comply with ALP policy ENV DM2.

The application does not propose any external alterations and relates solely to a change of use. The application is therefore exempt from Statutory Biodiversity Net Gain under the de-minimis exemption.

The proposal is in accordance with ALP policies ENV SP1 and ENV DM1.

SUMMARY

The proposal is in conflict with ALP policy EMP DM1, in that the application results in a loss of employment space, and has not provided any justification for this. However, the area of floorspace which would be lost is small, at approx. 108sqm, and this conflict is given limited weight which does not amount to significant and demonstrable harm that would outweigh the benefits of the proposal. As such, paragraph 11(d)(ii) of the NPPF states that permission should be granted.

Following the completion of the S.106 Unilateral Undertaking, which is anticipated prior to the Planning Committee, the proposal will be compliant with relevant Development Plan policies and is recommended for approval subject to the S.106 Unilateral Undertaking and the following conditions and informatives.

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

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.

CIL DETAILS

This application is not CIL liable.

RECOMMENDATION

- 1 The development hereby approved shall be carried out in accordance with the following approved plans:
 - Location Plan 000
 - Block Plan 000B REVA
 - Proposed First Floor Plan 005
 - Proposed Second Floor Plan 006
 - Proposed Elevations 007
 - Bin Storage and Rear Amenity 008

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

- 2 The development hereby approved shall not accommodate more than 5 No. occupiers on site at any one time.

Reason: In the interests of ensuring sufficient amenity for the occupiers and local residents in accordance with Arun Local Plan policy QE SP1.

- 3 Based on the information available, this permission is exempt from the requirement to provide a biodiversity gain plan under Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990. The following exemption applies:

This planning permission is de-minimis as the development does not impact an onsite priority habitat and the development impacts less than 25 square metres of onsite habitat that has a biodiversity value greater than zero and less than then 5 metres in length of onsite linear habitat.

Reason: In accordance with Schedule 7A of the Town and Country Planning Act 1990 (as amended).

- 4 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the NPPF.