

PLANNING, DESIGN AND ACCESS STATEMENT – ADDENDUM

Temporary change of use from Care Home (C2) to temporary accommodation for seasonal agricultural workers for 12-month period. (Resubmission of Application Reference BR/138/20/PL).

Former Royal Bay Care Home, 86 Aldwick Road, Bognor Regis, PE21 2PE

1.0 INTRODUCTION AND BACKGROUND TO APPLICATION

- 1.1 This Addendum statement has been prepared to support a re-submission planning application for the temporary change of use of the former Royal Bay Care Home at 86, Aldwick Road, Bognor Regis for temporary accommodation for seasonal agricultural workers, for a period of 12 months. It should be read in conjunction with the main Planning, Design and Access Statement which accompanied application BR/138/20/PL and is also submitted with this application.
- 1.2 In June 2020, planning permission was sought by Pro-force Ltd, a recruitment company specialising in providing key workers to local food/agricultural/horticultural businesses for the temporary use of the former Royal Bay Care Home for accommodation for seasonal agricultural workers for 12 months. (Application Reference BR/138/20/PL). During the determination of that application, objections were received from several residents as well as the Town Council. In addition, the Highway Authority requested additional information.
- 1.3 Additional and amended information was submitted by email to address those concerns, including a reduction in numbers of occupants from 58 (originally 80) together with a change in the transport arrangements to reduce the number of vehicular trips. The Council however refused to accept this as an amendment on the basis that re-consultation would be necessary. The application was refused on 21st August 2020 for the following reasons:-

1.4 Reason 1:-

The development by reason of number of residents results in an intensification of use that adversely affects the character of the area which would affect public and neighbouring amenities, would result in the generation of excessive parking demands which would harm nearby public amenity and would fail to provide an adequate area of amenity space which would demonstrably harm the amenities of future occupants; contrary to Policies H SP4, QE SP1 and T SP1 of the Arun Local Plan.

1.5 Reason 2:-

Insufficient information has been provided to demonstrate the frequency and number of traffic BR/138/20/PL REPORT_1011(ODB) movements that both the previous C2 use would have generated and what the proposed temporary accommodation is expected to generate.

- 1.6 This re-submission application seeks to address the reasons for refusal and to clarify aspects of the proposal. The main changes to the proposal relate to the maximum occupancy levels, the provision of amenity space for residents and to transport arrangements.

2.0 AMENDED PROPOSALS

Occupancy levels and communal facilities

- 2.1 Given the uncertainty surrounding the COVID-19 pandemic at the time of the submission of the previous application, the previous application stated the maximum number of people that could technically occupy the accommodation would be 80. It was however always the intention of the Applicant to manage the site within the Government and Public Health England guidelines in respect to Covid-19.
- 2.2 To accord with the most recent COVID-19 guidelines, the application proposal has been amended as follows:- The **maximum** number of residents will be **reduced to 58 residents**. The accommodation will be divided into “cohorts” with any central facilities operated in accordance with an agreed method statement ensuring that social distancing between each cohort is achieved. To reiterate, 58 residents is the *maximum* that the Applicant believes can be accommodated within the current guidelines.
- 2.3 As a result of the reduced numbers of residents, additional internal spaces will be allocated as lounges and social areas. This will enhance the amenity provision for residents as well as facilitating the current requirement for segregating workers into cohorts for adherence to COVID-19 guidelines. Communal areas will be provided on each floor as shown on the proposed floor plans as follows:
- Ground Floor internal – existing Kitchen, dining, lounge, conservatory and social area
 - Ground floor external – picnic tables & chairs – these are well-screened from the residential surrounding properties.
 - First floor – Room 204 – converted to a communal lounge
 - Second floor – Room 311 – converted to a communal lounge

Fig 1 Ground floor plan showing communal areas, outside area and bin store

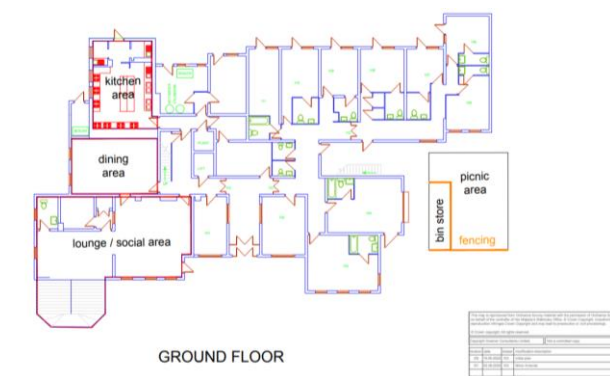
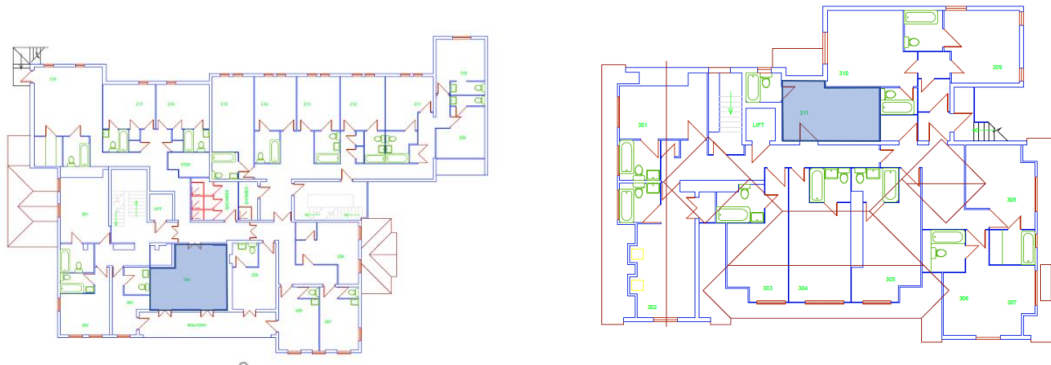


Fig 2 First and Second Floor plan showing communal areas



Transport proposals

- 2.5 To address the concerns and queries raised by West Sussex County Council (WSSC) and also as a result of the changing social distancing guidelines, the transport arrangements for workers have been revised.
- 2.6 **Workers will be transported to their places of work by minibus**, with a reduced number of occupants per bus (to enable social distancing). There will be between 6 and 9 minibus movements in the morning and between 6 and 9 minibus movements in the afternoon. The range in number of minibuses is to allow for variations in social distancing rules. The morning movement of minibuses will take place at 06h30 (before peak traffic) so that workers can reach their places of work for an 08h00 start. The minibuses will then pick up workers at 16h00 arriving back at the site at 17h00.
- 2.7 In addition to the above there will be a small number of staff vehicles accessing the site resulting in an estimated 6 additional traffic movements per day (3 in, 3 out). These movements will be for the site management team, maintenance and welfare team operating the facility and will take place at 8h00 and 17h00.
- 2.8 A transport statement accompanies this application. This assessment firstly looks at the trip rates of the existing extant use for an elderly care home (based off a recently agreed trip rate within West Sussex) concluding that the site could generate 6 no. 2-way movements during AM and PM peak hours and 85 trips over a typical day. This is then compared with the anticipated trip rate from the proposed use, using residential trip rates and specific information about the application. The assessment concludes that, compared with the previous lawful care home use, there will be no net change in traffic generation during peak hours and, over the course of a typical day there will be a net reduction of 7 movements, even using worse case assumptions (ie minibus use and an element of double-counting for personal car trips).
- 2.9 The transport statement also demonstrates that there will be adequate on-site parking for all vehicles as well as sufficient turning/manoeuvring space for cars and minibuses to ensure that vehicles can safely access and egress the site in forward gear.

3.0 OTHER POINTS OF CLARIFICATION

- 3.1 Contrary to the view of the Council's Officers in the refused application, agricultural workers are included in the list of critical workers in Government publications. In the education guidance, under the sub-heading Critical Workers, it states "*parents whose work is critical to the coronavirus (COVID-19) response include ... those who work in health and social care and in other key sectors*". One of those key sectors is stated as "**Food and other necessary goods**". (See link below).

<https://www.gov.uk/government/publications/coronavirus-covid-19-maintaining-educational-provision/guidance-for-schools-colleges-and-local-authorities-on-maintaining-educational-provision>

- 3.2 Furthermore, the link below confirms that "*Seasonal Agricultural worker who have an offer of employment for seasonal work to carry out specific activities in edible horticulture on a named farm*" are exempt from quarantine restrictions due to their status.

<https://www.gov.uk/government/publications/coronavirus-covid-19-travellers-exempt-from-uk-border-rules/coronavirus-covid-19-travellers-exempt-from-uk-border-rules>

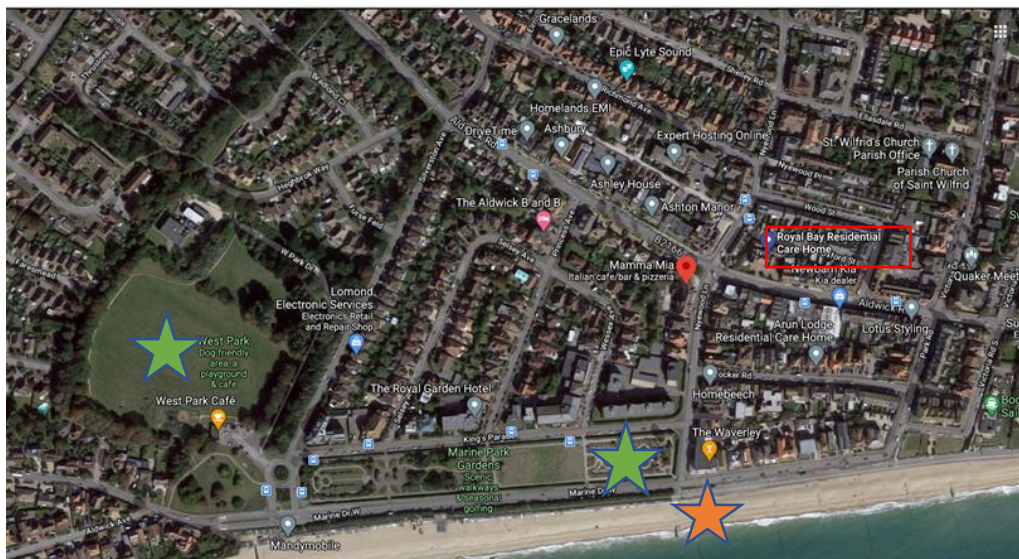
- 3.3 The site referred to in the refused application at Bracklesham Bay was not owned by the Applicant company nor any sister company. It was leased from the owners on a temporary basis whilst the owners/developers sought planning permission for residential redevelopment. To be clear, the Applicant is not a developer – the company specialises in the recruitment of workers for the agricultural sector and in providing and managing high quality accommodation and training.

4.0 ADDRESSING THE PREVIOUS REASONS FOR REFUSAL

- 4.1 Reason for Refusal 1 (RfR1) of the previous application BR/138/20/PL states that the proposal will cause "*....an intensification of use that adversely affects the character of the area which would affect public and neighbouring amenities, would result in the generation of excessive parking demands which would harm nearby public amenity and would fail to provide an adequate area of amenity space which would demonstrably harm the amenities of future occupants*".
- 4.2 The RfR in the decision notice does not specify what aspects of the area's character and amenities that the re-use of this vacant building will purportedly harm, however the Officer's Report refers to concerns about noise and disturbance, greater demand for off street parking and generating more refuse and inadequate open space.
- 4.3 With regard to general noise and disturbance, the agricultural workers will be leaving the building at 0630 in the morning and not returning until mid-late afternoon. The premises will therefore have low occupancy during the majority of the day. The Applicant company operates strict house rules and procedures and these, together with social distancing rules will be rigorously enforced. (See details in main Planning, Design and Access Statement). The company also operates an open-house procedure for anyone who has issues or concerns. Only a small proportion of the agricultural workforce (less than 10%) will have their own cars

and therefore, outside of the minibus movements, individual traffic movements will similarly be very limited (see transport statement). It should also be acknowledged that the former Care Home would have generated a significant number of movements. There would have been care staff, cooks, cleaners, administrative/office staff, visitors, visiting health professionals. Indeed, the Officers Report (under the Principle of Development section) states that the Care Home would have provided employment for approximately 40 full and part-time staff. The transport statement clearly shows there is adequate space within the site for parking and thus the proposal will not result in greater demand for off street parking. In terms of refuse storage, the former Care Home stored its waste at the rear of the building.

- 4.4 The proposed refuse storage arrangements for this application are shown on the submitted plans, namely a storage area at the front of the building. This has been prompted by the private waste collection company who is not prepared to collect bins from the rear of the property and hence there are existing refuse storage provisions in place (for the care home) (see plans) and a private waste collection service has been arranged. Given the lawful use of the site as Care Home which would have generated significantly higher levels of traffic and waste, there is no justification to refuse on these grounds.
- 4.5 In terms of the provision of private open space for the agricultural workers, as shown on the proposed floorplans, there will be ample internal facilities (lounge and social areas) for the residents in the evenings and days off which will comply with the relevant social distancing guidelines. As set out in the main Planning, Design and Access Statement, these areas will have recreational facilities such as snooker tables, dart boards as well as a TV. An area of external public space is also proposed (see plans). In addition, the agricultural workers will have easy access to extensive public open spaces - Marine Park Gardens and West Park lie within a distance of just 280m and 650m respectively from the site and the beach is just a short 300m walk away). The town itself provides a range of entertainment and social facilities, all of which are within a few minutes' walk. (See below). Given that the application is only for a 12 month temporary period, the facilities provided within the building and the easy access to public open spaces and town centre facilities in close proximity to the site, it is considered that the proposal fully complies with national and local planning policies and there would be no justification to refuse on the basis of lack of amenity space.



- 4.6 Whilst the council has considered this application against its HMO policy, in general terms it must be borne in mind that this is not a standard House in Multiple Occupancy application. To start with, this building cannot be considered “a house”, in any ordinary sense of the word, due to its size and capacity. This is a bespoke application for accommodation for agricultural workers submitted by a specialist recruitment company that has an impressive track record and reputation for providing high quality temporary accommodation for key worker who fulfil the Government’s definition of critical workers. (See below for clarification). The heavy emphasis placed by the council on this proposal constituting an HMO is considered to be both unbalanced and misleading because it ignores the essential characteristics of this particular and specific application proposal and also results in a somewhat skewed and unbalanced starting point for consideration of the application. On the other hand even if the HMO policy HSP4 was considered to be directly relevant, the proposal complies in all respects as set out above – in that it provides adequate parking, will not result in undue noise or disturbance, will not create excessive parking demands and traffic and will not cause the loss of a family home. Furthermore, it will positively contribute to a socially diverse and inclusive neighbourhood in accordance with policy.
- 4.7 As well as the direct economic impacts associated with the seasonal agricultural workers (which is rehearsed at length in the main Planning, Design and Access Statement), this proposal will contribute to the vitality and viability of the area by supporting local shops, cafes and other services/venues. This is all at a time when the country is entering into a deep economic recession, when employment levels are plummeting and when the Government is actively encouraging people to support high street businesses.
- 4.8 In respect of the previous decision, it is also highly surprising (and concerning) that the Council:-
- Failed to identify specific Local Plan policies which support economic development/growth, namely Policy SD SP1a (Strategic Approach) which seeks to ensure the District’s unique character whilst ensuring that the needs of the community are met through sustainable growth and the provision of suitable

services; Policy SD SP2 – which states that “*Development should be focused within the Built Up Area Boundaries and will be permitted, subject to consideration against other policies of this Local Plan*”; Policy EMP SP1 – which promotes the sustainable growth of the District’s economy to meet the varying needs of different economic sectors and to support regeneration within the two main towns; Policy EMP DM1 which protect and enhances existing employment sites and premises *to meet the needs of businesses and the local economy*; Policy SKILLS SP1 which encourages development proposals that raise skills levels and increase employability and tackle skills shortages in existing and potential business sector clusters that are, or have the potential to be, strengths in the local economy; (please refer to training and skills information within main Planning, D&A Statement).

- Failed to identify the impact on the local economy as a material planning issue
- Failed to consult relevant expertise in the Economic Development Department
- Failed to refer or acknowledge any of the detailed information/evidence submitted with the application to the agricultural sector (which points to special circumstances that must be taken into account and given due weight).
- Failed to acknowledge or refer to any relevant NPPF policies (this is highly surprising given that the NPPF prescribes the amount of weight to be given to economic factors (particularly economic recovery and growth) and the direct link this application has with the agricultural sector (which is referred to in the Local Plan as being a critical sector)).

4.9 In determining the current application, as well as addressing the above errors, the Council should also consider the fall-back position as a material planning consideration. The application is for a residential use of a building that has been used for residential care within Use Class C2. In other words, both the existing lawful use and the proposed use are residential uses which are, by definition, deemed to be appropriate in a residential area. Furthermore, the Council should take into account the fall-back position of what the former Care Home building could be used for, without the need for planning permission. A C2 use is defined as a “residential institution” and includes residential schools and colleges, residential training centres, hospitals, children’s homes and other residential institutions. Planning permission would not be required for any of the above alternative uses and therefore there would be no restrictions on numbers of occupants, transport arrangements etc, other than being self-limited by the amount of accommodation available. In addition, a change of use to a state funded school or nursery would be permitted development (albeit subject to prior approval). Case law has held that the fallback position only has to be a *possibility* for it to feature as a material consideration.

4.10 Whilst acknowledging the need to comply with COVID-19 rules including social distancing, this planning application must not be used as an opportunity to duplicate other legislation and guidance. Government Guidance itself states that the “*focus of the planning system should be on whether the development itself is an acceptable use of land, and the impacts of those uses, rather than any control processes, health and safety issues or emissions where these are subject to approvals under other regimes. It is to be assumed that non-planning regimes will operate effectively*”.

5.0 THE CORRECT APPROACH TO DECISION-MAKING and CONCLUSION

5.1 To reiterate the correct approach to determining this application, the Local Planning Authority's (LPA) statutory duty is two-fold. Firstly, under S70 (2) of the Town and Country Planning Act it must *"have regard to...the provisions of the Development Plan, so far as material to the application"* and *"other material considerations"* AND secondly, under S38(6) of the Planning and Compulsory Purchase Act 2004 to *"make determination in accordance with the plan unless material considerations indicate otherwise"*.

5.2 This has been held to mean that the LPA must:-

a) FIRST correctly identify relevant policies in the Development Plan; then

b) SECONDLY correctly apply those policies to the proposal in question; and then

c) decide whether the proposal accords with the Development Plan "as a whole" before then going onto

d) consider whether other material considerations indicate that a different decision should be made.

5.3 In carrying out step c) above, in the event that different development plan policies pull in different directions, the decision-maker must decide which policies take precedence over others/or which policies should carry greater weight. In any event, it is a well-established principle that a proposal does not have to accord with each and every policy in order for it to be *"in accordance with the development plan"*. This was confirmed by the recent Court of Appeal Judgment - Corbett v Cornwall [2020] in which the Judge quotes from numerous authorities, including the earlier R v Rochdale MBC ex parte Milne case [2000] EWHC 650 (Admin) where Sullivan J, as he was then, stated in paragraphs 49-51:-

"49 In the light of that decision I regard as untenable the proposition that if there is a breach of any one policy in a development plan, a proposed development cannot be said to be "in accordance with the plan". Given the numerous conflicting interests that development plans seek to reconcile... the needs of more housing, more employment....the protection of ...attractive landscapes etc, it would be difficult to find any project of any significance that was wholly in accordance with every relevant policy in the development plan".

"50 ... it is enough that the proposal accords with the development plan as a whole. It does not have to accord with each and every policy therein".

5.4 When carrying out step d), It is well established that the policies within the NPPF constitute *"other material considerations"* and should be given significant weight.

Conclusion

6.0 In conclusion, it is considered that the amendments that have been made to the proposal are more than sufficient to address the concerns of consultees, neighbours and the reasons for refusal. The Council is urged to give full and proper consideration to all of the above issues (and to those identified in the main Planning Statement) and, to properly carry out the planning balance in accordance with statute. This should be done quickly and correctly, as required by the NPPF. Indeed, as the Government stated in its MHCLG guidance publication dated 13th May 2020 (which introduced temporary measures to main it easier to

operate the planning system) , ***“It is important to keep the planning system moving as much as we can, so that it is able to play its full part in the economic recovery to come, at both national and local levels”.***

- 6.1 When properly carried out, the Planning Balance exercise will show the proposal to be fully in accordance with the Development Plan taken as a whole. In addition, the other material considerations, including the fall-back position, need and other economic impact arguments also provide compelling reasons why the application should be approved.

APPENDIX 1 – photographs

Photo 1 – view of kitchen



Photo 2 – view of cooking facilities



Photo 3 – showing spacious wide internal corridors and ceilings

