

REPORT UPDATE

Application No: BR/21/26/PL

Reason for the Update / Changes

Reason for Update/Changes: Comments have been received from WSCC Highways, raising no objection to the proposals. A condition has been recommended requiring proposed cycle parking to be provided prior to occupation. It is recommended that this condition be added to the condition list, and an updated list of conditions has been provided. The condition is number 5.

One additional objection has been received from a nearby occupier, raising similar concerns to those listed within the report.

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/21/26/PL

LOCATION: 54 Richmond Avenue
Bognor Regis
PO21 2YF

PROPOSAL: Change of use of dwelling to an 8 bed HMO to include a single storey rear extension, loft conversion with dormer. This application is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Change of use of a dwelling to an 8 bed HMO to include a single storey rear extension and loft conversion with dormer.
SITE CHARACTERISTICS	Semi-detached property set back from the road with parking and a small garden to the front, and garden to the rear.
CHARACTER OF LOCALITY	Residential area, with a mix of flats, semi-detached and detached houses

REPRESENTATIONS

Bognor Regis Town Council (BRTC) - Objection.

- Over development and intensification of use.
- Impacts on neighbouring properties due to overlooking, overbearing, loss of privacy and light.
- Harm to the character of the area.
- Increased parking pressure and highway impacts.

18 No. representations were received from nearby occupiers raising the following concerns:

- Too many HMOs in the area. Numbers have increased in the past few years, and their distribution has

moved westwards from the centre of Bognor Regis.

- Out of character with the surrounding area, which is mainly family homes.
- The proposed dormer would lead to a loss of privacy.
- Increased risk of antisocial behaviour.
- Increased occupation would increase disturbance and waste.
- The instruction of the Article 4 in this area indicates that the threshold of harm has been exceeded, and further HMOs in the area should be refused.
- S106 agreements are inadequate to mitigate issues such as antisocial behaviour and lack of parking.
- Increased lighting and light spill.
- The proposal does not include EV charging or renewable and low-carbon energy measures.
- Approval could set a precedent.
- Access for emergency vehicles is inadequate.
- Parking outside the property would create a hazard for other road users.
- Drains and blockages have been a problem in this area historically.
- A previous application in the area was refused due to parking issues.
- High turnover of tenants.

COMMENTS ON REPRESENTATIONS RECEIVED:

Issues relating to the impact of the development on the character of the area, the Article 4, parking and neighbouring residential amenity are addressed in the conclusions.

The previous application which is referenced was an application for a single dwelling which was refused due to harm to the character of the area and neighbouring residential amenity. Parking was considered under this application but did not form a reason for refusal.

The S106 agreement which would be associated with this permission is solely related to the potential impact of the development on the Pagham Harbour Special Protection Area (SPA).

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

NATURAL ENGLAND - Further information required:

- The development has the potential to have a harmful effect on a European site by way of recreational pressures.
- Your authority has measures in place to manage potential impacts through a strategic solution which Natural England considers will be effective in preventing adverse impacts on the integrity of the site.
- Appropriate Assessment of these measures is suggested.

ENVIRONMENTAL HEALTH - No objection.

PRIVATE SECTOR HOUSING

- Various advice relating to separate legislation. Namely the 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. A S106 Unilateral Undertaking has been completed securing the relevant financial contribution for managing recreational pressures at the Pagham Harbour SPA, addressing the concerns from Natural England.

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary

Article 4

Pagham Harbour Zone B

2km Buffer for SSSI

Risk of Surface Water Flooding (1 in 1000)

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

SDSP2	SD SP2 Built-up Area Boundary
HSP4	H SP4 Houses in multiple occupation
DDM1	D DM1 Aspects of form and design quality
DDM4	D DM4 Extensions and alter to exist builds (res and non-res)
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
WDM2	W DM2 Flood Risk
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
ENVSP1	ENV SP1 Natural Environment
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development

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 has a shortfall of on-site car parking, 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 does not harm the character or visual amenity of the area, result in an unacceptable local overconcentration of HMOs, or harm neighbouring residential amenity to an extent that would justify refusal of permission. The development 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 a semi-detached dwelling in C3 use. The application seeks extensions and a change of use to a House in Multiple Occupation (HMO) (sui generis). The site is in the Built Up Area Boundary, where the principle of development is acceptable subject to compliance with other development plan policies.

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 Article 4 direction applies to the Marine ward (Bognor Regis) in which the site is located.

The wards to which the Article 4 Direction applies are those 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 larger 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.

The Direction does not automatically mean that planning permission for HMOs in this area should be refused. Each HMO proposal must be assessed on its own merits, with an objective evaluation of the concentration of HMOs and the subsequent potential harm at district, ward, and local levels. This report takes account of recent appeal decisions on both small and large HMOs in the relevant wards, where

refusals on the grounds of overconcentration and character impacts were challenged and overturned, and uses the methods established in these decisions to assess HMO concentrations in an area.

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

CHARACTER AND DESIGN

The rear extension would project approx. 3m for the rear elevation and would span the width of the dwelling. The extension would not be visible from the street, and would be finished with brick to match the main building. The extension would remain visually subservient to the building. The extension would be similar to the extension on the neighbouring property to the west, and would not harm the character or visual amenity of the site, in accordance with ALP policies D DM1 and D DM4.

The proposed rear dormer has a flat roof and would be 6.8m wide. The dormer would be in partial conflict with the Arun Design Guide (ADG), which states dormers should be minor incidents on the roof plane and incorporate pitched roofs in most cases. The dormer is set down from the ridge height and set in from the sides of the roof. The dormer remains subservient to the main roof, and would be finished with tile hanging to match the roof. Whilst there is some conflict with the ADG, the dormer would be in accordance with ALP policy D DM4. The dormer would be located to the rear of the property and would not harm the visual amenity of the area, in accordance with ALP policy D DM1.

ALP Policy H SP4 requires that HMOs (a) 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 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 (150m-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.

In line with these previous appeal decisions, an assessment of HMO numbers within a radius of 250m of the site has been undertaken, and found that approx. 2% of properties within 250m of 54 Richmond Road are HMOs.

While the majority of HMOs within this 250m radius house 3-10 No. occupants, it is recognised that there is one larger HMO within close proximity at 120 Aldwick Road. This HMO accommodates a maximum of 109 people, and provides employee accommodation. This HMO is subject to a strict management plan, to ensure that this unit does not contribute significantly to the adverse social impacts often associated with an overconcentration of HMOs.

Whilst there are a number of HMOs nearby, including the larger HMO identified above, the vast majority of houses in the area remain in C3 use. The addition of an 8 occupant HMO will not significantly alter this. Based on this assessment and the outcome of previous appeal decisions, this does not constitute a localised overconcentration nor an imbalance of housing types and will not be unacceptably harmful or adversely affect the character of the area. For the reasons outlined above, while officers appreciate the evidence base supporting the Article 4 Direction, the concerns raised by local residents and the comments of BRTC, this proposal would not result in an overconcentration of HMOs in the local area. The proposal is in accordance with ALP policy H SP4(a), and would not result in harm to the character of the area, in accordance with ALP policy D DM1.

INTERNAL SPACE STANDARDS, RESIDENTIAL AMENITY AND OPEN SPACE

The HMO would have 8 No. bedrooms, and the Design and Access Statement indicates that the property is intended to be occupied by a maximum of 8 people. The Nationally Described Space Standards (NDSS) do not provide relevant standards for HMOs but the standards do provide a point of reference for an assessment of residential amenity. For a new build dwelling, the minimum requirement is that a single bedroom must have an area of at least 7.5sqm and be at least 2.15m wide. All bedrooms are well in excess of the minimum internal space standards for a bedroom with a single bedspace. All bedrooms are served by windows and have sufficient access to natural light.

The proposal is compliant with the NDSS and the proposal would provide sufficient internal space for its occupiers. The proposal complies with ALP policies QE SP1 and D DM2.

In terms of external space provisions, Section H of the ADG advises that communal shared spaces, such as shared external amenity space, should be at minimum 40sqm, plus 10sqm for each unit. The council

treat every three rooms within an HMO as one unit. The proposal would require between 60 and 70sqm of communal external amenity space to satisfy this guideline. The property has a deep rear garden with an area of approx. 84sqm which would exceed these requirements.

The proposal would likely be considered to comply with ALP policies D DM1, H SP4 and the ADG in respect of the residential amenity of future occupiers.

FLOOD RISK

The site is in Flood Zone 1, with an area of low risk of surface water flooding to the rear of the building, which the proposed rear extension would be located within. The proposal does not increase the vulnerability classification of the site, however, it would result in an increase in the number of occupiers. One of the additional bedrooms would be in an area of the site which is at low risk of surface water flooding.

The application has been accompanied by a Flood Risk Assessment (FRA) within the Design and Access Statement. The measures contained in the FRA are considered appropriate, given the scale of development proposed. A condition has been attached to ensure that the floor levels of the extension are set no lower than the existing ground floor level.

The proposal complies with ALP policy W DM2 and the NPPF.

NEIGHBOURING RESIDENTIAL AMENITY

ALP policy D DM1 requires development to have a minimal impact on users/occupiers of nearby property and land. The proposals involve physical alterations which have the potential to impact the residential amenity of neighbouring occupiers. The rear extension would extend up to the boundary with the neighbouring property to the northwest. The extension would conflict with the ADG in that the extension would intersect a 45 degree line taken from the closest ground floor rear window of the neighbouring property. The property to the northwest is divided into 5 flats, and the area of the building adjacent to the shared boundary forms the entrance to a number of the flats within the building. Given this area forms an entranceway, and the extension would be single storey and approx. 3.25m high, the extension would not result in harmful impacts by way of overbearing or overshadowing. Windows associated with the rear extension be at ground floor level and would not result in overshadowing impacts.

The dormer will replace a smaller dormer in this location. Whilst an additional window will be installed at second floor level, this would not give rise to any significant views which cannot be gained from the existing window. The dormer would not result in unacceptable impacts on neighbouring occupiers. The both the rear extension and the dormer comply with ALP policies D DM1 and D DM4, in that they would not result in unacceptable overbearing, overshadowing or overlooking impacts.

The proposal is likely to increase the number of occupiers, which may lead to an increase in noise levels/comings and goings from the property. While this may be noticeable to adjacent occupiers, the noise and activity would remain typical of a residential use. Whilst the change of use is likely to increase the number of occupiers, the existing house has 6 bedrooms, and could be occupied by a similar number of people within its existing use class. The potential increase in disturbance would not be unduly harmful. The proposal is in accordance with ALP policies QE SP1, H SP4, and D DM1.

HIGHWAYS, TRANSPORT AND PARKING

The site is in a sustainable location in close proximity of the town centre, and with a wide range of services in walking distance of the site. The property is also in walking distance of public transport, including 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.

The proposal does not propose any changes to vehicular access and parking arrangements. The driveway, which provides a single parking space, would remain following the development. ALP policy H SP4(b) requires that HMOs do not contribute to the generation of excessive parking demands or traffic in an area. The Arun Parking Standards 2020 has no specific category for HMO uses, but for a 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 4 car parking spaces and 3 cycle parking spaces (rounded up) to comply with WSCC standards.

The existing use of the property would generate parking demand, and a new build property of this size in this location would be expected to provide a minimum of 2 on-site parking spaces. On this basis, it is likely that there is some on-street parking associated with the existing use of the property. When compared with the existing use, the proposal has a shortfall of 2 parking spaces.

On-street parking outside the property is unrestricted and would be available on Richmond Avenue and surrounding roads, and the additional parking demand could be accommodated on the surrounding streets. The site is in a highly sustainable location, and is within approx. 2 minutes walk of bus stops along Aldwick Road, and within 15-20 minute walk of Bognor Regis railway station.

Cycle parking is proposed in the existing shed to the rear of the site, and would provide space for a minimum of 6 bicycles. The cycle parking provision would therefore exceed the level recommended by the WSCC guidance and Arun Parking Standards.

The shortfall in car parking spaces would conflict with the WSCC Guidance on Parking for New Development document, and ALP policy T SP1 by extension. Taking into account the easy access to sustainable transport options in the vicinity, and the additional provision of cycle parking, the proposal would not have any unacceptable impact on highways parking capacity. Whilst there is conflict with the development plan in this respect, this conflict does not amount to harm which would justify the refusal of planning permission.

ECOLOGY, BIODIVERSITY AND PAGHAM HARBOUR

The site is in the zone of influence of the Pagham Harbour 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.

A Section 106 Unilateral Undertaking has been completed to secure this contribution and the proposal complies with ALP policy ENV DM2.

The application is exempt from Statutory Biodiversity Net Gain under the de-minimis exemption.

SUMMARY

The proposal is in conflict with ALP policy T SP1 due to a shortfall in on-site parking. However, this conflict does not amount to significant or demonstrable harm that would outweigh the benefits of the proposal for the reasons outlined above. As such, permission should be granted.

The proposal complies with the remaining 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 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 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 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 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 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:

- Location Plan
- Block Plan, Existing and Proposed Floor Plans, Elevations, Roof Plans 250907-3.01 REVB

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policy D DM1.
- 3 The development hereby approved shall not accommodate more than 8 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.
- 4 The floor level of the proposed extensions shall be set no lower than those of the existing dwelling.

Reason: To protect the development from risk of flooding and to accord with Arun Local Plan

policy W DM2.

- 5 No part of the development shall be first occupied until the proposed 6 covered and secure cycle parking spaces have been provided in accordance with the proposed plan (Block Plan, Existing and Proposed Floor Plans, Elevations, Roof Plans 250907-3.01 REVB). The spaces so provided shall be retained in perpetuity.

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

- 6 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 5m in length of onsite linear habitat.

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

- 7 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.