

PLANNING USE STATEMENT

MARCH 2022

SITE: SELWOOD LODGE, 93 VICTORIA DRIVE, BOGNOR REGIS, PO21 2DZ

PROJECT: CHANGE OF USE FROM C1 GUEST HOUSE TO A 16 BED HOUSE OF MULTIPLE OCCUPATION (SUI GENERIS) INCLUDING FIRST FLOOR EXTENSION, DEMOLITION OF EXISTING DETACHED GARAGE AND EXTERNAL ALTERATIONS.

CLIENT: MR T JONES

LPA / REF: ARUN DISTRICT COUNCIL - BR/29/22/PL

1.0 SITE CHARACTER & POLICY CONSTRAINTS

- 1.1.1 Selwood Lodge is a heavily extended two storey building whose original use was as a detached family home before it was converted into use as a C1 guest house. The property currently comprises of 3no bedrooms on the ground floor along with communal facilities such as lounges, a bar and pool room, and the kitchens, and it has 6no bedrooms on the first floor. To the side of the property there is a limited width restriction to 3no car parking spaces. The rear of the building has a large garden in communal C1 use.
- 1.1.2 The existing use of the site for C1 purposes is unfettered by any planning restrictions. There are no restrictions in place to control the number of persons visiting the property, and there is no restriction on the sale of alcohol to guests or visitors. Whilst the property is the subject of licencing controls, these allow the use of the property and the communal garden area for drinking and eating, restricted events, and up to 23:00 at night-time. The unfettered use of the application site for C1 purposes is not restricted to the current owner/occupier.
- 1.1.3 The application site is located outside of the defined Bognor Regis town centre and is not within the Economic Growth Area. Moreover, the site is located within an urban area which is predominantly in a residential use. The surrounding area comprises of family housing, smaller residential dwelling units (many arising through historic sub-divisions), and HMOs. The site is located 400m from the town centre boundary, 400m from the rail station, and over 1km from the sea-front in Bognor Regis. The more remote location of the guest house and its position over 1km inland renders it in a less desirable position for holiday-makers.
- 1.1.4 There are no on-street parking restrictions in the local area and the use of the application site as a guest house was predicated on visitors parking on the local highway network.

2.0 PLANNING LEGISLATION AND POLICY

2.1 THE STATUTORY REQUIREMENT

2.1.1 The following statutory instruments form the primary legislative basis for the lawful processing and determination of a planning application made to the Local Planning Authority:

- Town and Country Planning Act 1990
- Planning and Compulsory Purchase Order 2004

2.2 NATIONAL PLANNING POLICY FRAMEWORK – JULY 2021 (& PPG)

2.2.1 Paragraph 11 of the NPPF (2021) requires that applications are determined in accordance with the presumption in favour of sustainable development. Because the Local Planning Authority is failing to meet its five year housing requirement, those policies relevant to the supply of housing are deemed to be out of date, and should be applied flexibly being given less weight. The presumption under (d)(ii) of paragraph 11 applies:

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

2.2.2 Paragraph 82 of the NPPF (2021) provides the government's policy in terms of the need to remain flexible with regards to competing economic and social needs, and specifically under criterion (d) this is relevant to where there are needs not anticipated within the plan:

(d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.

2.2.3 A C1 use such as a hotel or a guest house is defined as a Main Town Centre use within the glossary definitions of the NPPF (2021). In this regard, paragraphs 87 and 88 (both of which are contained within a more up-to-date policy document than the Local Plan 2018) compel Local Planning Authorities to locate main town centre uses within the defined centres rather than on out of centre sites, and then apply a sequential approach filtering outwards:

87. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

88. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

2.2.4 Section 11 of the NPPF (2021) is relevant to the determination of this application and this relates to the need to make effective use of land. Whilst the application site is intended for use as a HMO, this still represents an integral part of housing supply (it is part of housing need for which paragraph 62 of the NPPF gives materiality and importance), and therefore great weight should be afforded to its provision. A HMO is in fact one of the most effective means by which to provide housing for those on lower incomes. Paragraph 125 states:

125 ... Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies 37 and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.

2.3 THE DEVELOPMENT PLAN

2.3.1 In this planning statement we specifically consider the use of the property and on that basis the most relevant policies of the development plan are TOU DM1 and H SP4:

TOU DM1

1. Visitor attractions, facilities and accommodation

Proposals for development, including expansion, which are likely to attract visitors (such as leisure or cultural facilities) will be supported provided that they:

- a. are in accessible locations;*
- b. are accompanied by workable and realistic travel plans;*
- c. address visitor management issues; and*
- d. achieve good design.*

Larger scale proposals will generally be directed towards the Economic Growth Areas of Littlehampton and Bognor Regis. Smaller scale development may be suitable in other areas of the District including Arundel.

Excepting Permitted Development Rights or Local / Neighbourhood Development Orders, existing visitor attractions, facilities and accommodation (except camping and caravan sites), will not be granted planning permission for a change of use that leads to the loss of a visitor offer unless it is demonstrated that the use is no longer required and the site is unlikely to be reused or redeveloped for visitor purposes. To demonstrate these requirements, the Council will require:

- e. that alternative visitor uses have been fully explored;*
- f. an appraisal indicating that the use is no longer viable;*
- g. evidence that the site has not been made deliberately unviable; and*
- h. evidence of the suitability of the site to accommodate the alternative use.*

H SP4

Houses In Multiple Occupation

Where planning applications for houses in multiple occupation (HMOs) are not already covered by permitted development rights, they will be favourably considered where the proposals contribute to the creation of sustainable, inclusive and mixed communities and meet the following criteria:

- 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.*

2.4 BOGNOR REGIS NEIGHBOURHOOD PLAN

2.4.1 Policy 7 of the Bognor Regis Neighbourhood Plan states:

This Neighbourhood Plan recognises the crucial importance the tourist industry has for the Bognor Regis economy. Where proposals comply with other policies in this plan, development of new and existing tourist facilities will be supported, as a crucial part of improving Bognor Regis as a visitor destination.

This Neighbourhood Plan supports the locating of an appropriate range of amenities and structures around five specific Beach Service Points/Hubs each in close proximity to step free access routes between the town and the foreshore. These five service points are the four key access routes as indicated on the key priorities map and the immediate area around the pier. Permanent and seasonal amenities are to be focused along these Beach Service Points each shall aim to include, if not already provided, step free access walkways to the foreshore and onto the esplanade and beyond, seasonal promenade café/eateries/retail and information outlets relevant to beach and seafront experience and visitor's needs. The immediate area around the pier is expected to provide the greatest range of amenities. Any development proposal on the seafront at these service points will be expected to maintain the visual integrity of the key views and vista defined in the Bognor Characterisation Study 2014 from the town out to the sea and along the seafront. Any alterations and additions to the seafront will need to assess potential impact on the Bognor Reef SSSI and take any measures necessary to remove any adverse effects on the reef.

2.4.2 As can be seen by the wording of the policy above, this is not restrictive towards the prevention of the loss of C1 hotels and guest houses, and indeed the main thrust of the policy is directing new development towards the sea-front locations. The policy cannot be used as a means of restraint against the change of use of C1 uses outside of the town centre and away from the sea-front locations.

3.0 PLANNING APPRAISAL

3.1 PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

3.1.1 There can be no dispute between the Local Planning Authority and the Applicant that currently the authority is not able to demonstrate that they have sufficient deliverable housing sites to meet their housing requirement. The latest Authority Monitoring report for 1st April 2020 – 31st March 2021 put the figure at 2.42 years. This represents a housing supply of 5,339 dwellings over the five year period 2021 to 2025 against the housing requirement of 11,028 dwellings. The housing shortfall within the borough is acute and severe.

3.1.2 Paragraph 11(d) of the NPPF (2021) applies the presumption in favour of sustainable development for the purposes of decision making in instances such as *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date*⁸. This means granting planning permission unless:

ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*

3.1.3 In deciding whether the policies that are out of date are those relevant to the supply of housing, established case law in *Suffolk Coastal District Council v (1) Hopkins Homes Ltd (2) SSoCLG; Richborough Estates LLP v (1) Cheshire East Borough Council (2) SSoCLG [2016] EWCA Civ 168*) stated:

“Our interpretation of the policy does not confine the concept of “policies for the supply of housing” merely to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. It recognizes that the concept extends to plan policies whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the Green Belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development. It reflects the reality that policies may serve to form the supply of housing land either by creating it or by constraining it – that policies of both kinds make the supply what it is.”

3.1.4 In the context of this judgement, it is therefore highly relevant to note that policy TOU DM1 is a policy whose effect is to ‘influence the supply of housing’. Section 1 of the policy is clear in respect of the fact that it has the effect of restricting against the change of use of the property to provide for the supply of housing unless a series of criteria are complied with, such as the availability of other alternative uses that may attract visitors. Unless the weight to policy TOU DM1 is lessened through applying the presumption in favour of sustainable development under paragraph 11(d)(ii), the policy would hold the use of the site in a C1 tourism use, and thereby restrict and frustrate the supply of housing in a situation of acute demand.

3.1.5 Policy TOU DM1 was adopted into a Local Plan amongst other policies that had the effect of influencing the supply of housing. The policy was up-to-date and could be afforded full weight all of the time that the Local Planning Authority could meet its housing requirement, and its housing policies could therefore be said to be up-to-date.

3.1.6 Shortly after the plan was adopted, those policies that influence the supply of housing both in a positive and restrictive sense, have failed to provide sufficient homes to meet the housing requirements of the plan. The consequence being that it is those relevant policies that are now out of date with the presumption in favour of sustainable development applying. As a

policy that has the effect of restricting housing, it is obvious that policy TOU DM1 must be given less weight in the decision making process.

- 3.1.7 As an additional point, we refer to paragraph 82(d) of the NPPF (2021) which requires the policies within the plan to *'be flexible enough to accommodate needs not anticipated in the plan'*. It is perhaps an obvious point that the policies of the Local Plan did not *anticipate*, or at least provide for a scenario, where there would be such a substantial under-supply of housing. However, it is clear from paragraph 82 of the NPPF (2021) that the implementation of economic planning policy (which includes those policies relevant to main town centre uses such as C1 hotels and guest houses) should be flexible enough to bend to allow alternative uses that maybe in significant demand.
- 3.1.8 In short, the negative wording of policy TOU DM1 is also out of date having regard to the acute housing shortage. In such circumstances there should be a 'flexibility' to the implementation of the policy to allow for the current housing needs not which were not *'anticipated in the plan'*. This flexibility essentially comes from the application of the presumption in favour of sustainable development and the tilted planning balance.

3.2 NEED FOR HMO ACCOMMODATION

- 3.2.1 We have examined the Coastal West Sussex SHMA (2012) and the summary of our findings is that there are substantial barriers to home ownership and private rent within the district of Arun as a whole, but also in the sub-area of Bognor Regis. The following table shows the extent of households that are unable to access market housing without subsidy:

Figure 93: Estimated Proportion of Households Unable to Afford Market Housing without Subsidy

Area	Income required to access market	Number unable to afford	Estimated households (2011)	% of households unable to afford
Adur	£35,700	16,003	26,729	59.9%
West	£32,400	7,041	12,247	57.5%
East	£37,200	8,963	14,482	61.9%
Arun	£32,000	30,800	67,036	45.9%
Littlehampton	£33,400	11,509	21,718	53.0%
Bognor Regis	£30,200	12,303	29,259	42.0%
National Park	£38,200	1,503	3,363	44.7%
Other	£35,400	5,484	12,695	43.2%
Chichester	£35,800	17,163	48,807	35.2%
City	£36,000	5,931	12,079	49.1%
National Park	£37,200	4,555	13,513	33.7%
North East	£37,200	624	2,881	21.7%
South	£30,000	6,053	20,335	29.8%
Worthing	£33,600	21,543	45,649	47.2%
Coastal West Sussex	£35,700	85,543	188,221	45.4%

Source: Online Estate and Letting Agents Survey (April 2012) and Experian (2011)

- 3.2.2 The above inability to access market housing has had the consequential effect of a reliance on affordable housing of different models, whether this be through social rent, affordable rent or shared ownership. Again, having reference to the same SHMA, at the time of the report being published there were 2,546 households on the register, representing nearly 9% of the overall number of households within Bognor Regis at that time.
- 3.2.3 The SHMA identified that back in 2012 there was a significant shortfall of affordable housing to provide for the growing need, and this was estimated at 1,794 dwellings per annum between 2011 and 2016 across the HMA. In terms of the need for affordable housing within Arun, this was identified as 578 dwellings per annum (page 156). The latest Authority

Monitoring report for 1st April 2020 – 31st March 2021 showed the past record of affordable housing delivery within the Arun district:

Affordable Dwellings Delivered and Total Dwellings delivered

Year Ended	Affordable dwellings (net)	Total dwellings (net)	% of Total Dwellings
31st March 2012	280	722	39%
31st March 2013	164	475	35%
31st March 2014	30	359	8%
31st March 2015	128	601	21%
31st March 2016	166	890	19%
31st March 2017	102	616	17%
31st March 2018	104	704	15%
31st March 2019	111	603	18%
31st March 2020	65	515	13%
31st March 2021	181	673	27%

3.2.4 In comparison with the 578 affordable dwellings required per year in Arun over the period 2011 to 2016 (SHMA, 2012), one can see from the above table that the actual delivery was 154 dwellings over this five year period. A backlog against the required AH delivery stated in the SHMA of 2,122 affordable dwellings has occurred, and the following run of affordable housing units delivered since 2016 has not got anywhere near to recovering this shortfall, with the gap between the affordable housing need and supply increasing further.

3.2.5 The SHMA (2012) stated:

While a significant deficiency in affordable housing is identified, in practice some households who are unable to secure affordable housing are able to live within the Private Rented Sector supported by housing benefit. It seems likely that the Private Rented Sector will continue to be used to some degree to make up for a shortfall of genuine affordable housing. Taking account of this, the housing needs analysis *per se* does not provide a justification for increasing overall housing requirements.

3.2.6 This in itself is a large part of the case for the desperate need for HMO accommodation within the district. Where households cannot afford to or are unable to secure affordable housing because of the costs, the waiting times, or because of the lack of availability of the required form of accommodation, then there is a need for the private rented sector to provide housing. The extent of the shortfall in affordable housing delivery has not meant that the housing need has disappeared, and there is a considerable need for shared accommodation to provide homes where self-contained market housing and affordable housing is unable.

3.2.7 An added factor that has resulted in the growth of the need for HMO accommodation over the past few years has been the manner in which benefit claimants under the age of 35 are only able to claim a single room allowance as opposed to an allowance for a 1 bed property. This has meant that many single persons under the age of 35 seek shared accommodation which better reflects the extent of housing benefit that they can receive.

3.2.8 Overall, there is clear evidence contained within the Coastal West Sussex SHMA (2012) and the latest Authority Monitoring report for 1st April 2020 – 31st March 2021, to show that there has been a worsening of the affordability ratio, and that there has been an exponential rise in the shortage of both market or affordable self-contained housing over a protracted period of at least 10 years. The private rental sector is too expensive for a substantial number of households to access self-contained housing, and there has been a sustained lack of delivery of affordable housing over the past ten years. Household growth, and the need for housing, has not slowed in this time but increased, and there is currently substantial demand for HMO accommodation within Bognor Regis, and within the Arun district as a whole.

- 3.2.9 It is therefore of the utmost importance that when assessing the application under the tilted planning balance, that a very substantial weight is attributed to the need and delivery of shared accommodation on the application site. It is this very substantial weight in favour of housing supply that, in contrast with the flexibility and reduced weight that should be given to retaining a C1 use guest house (see section 4.1), that means that the application should be granted planning permission notwithstanding a minor infraction against policy TOU DM1.

3.3 LACK OF INTEREST IN C1 USE

- 3.3.1 The application site has been actively marketed for a considerable period of time spanning at least the past 5 years. This is because of the current owner's desire to leave the business for personal reasons. However, during the time that it has been marketed, the owner and current agent (Fleurets) has confirmed that there has been no interest in continuing to use the property for its current established C1 use.
- 3.3.2 The most recent period of marketing (with Fleurets) has been undertaken since October 2021. The alert on the company's website sent the details to 5,071 parties on their database, of which only 344 downloaded or viewed the details (6.7%). The interest generated by the marketing was for the use of the property in alternative uses to C1. A viewing session was run with 2 parties attending (and 2 separate viewings). Again, there was no interest in occupying the property as a C1 guest house or similar operation.
- 3.3.3 We contend that on the basis of putting the property for sale in-front of upward of 5000 potential purchasers, and only having 4 parties attending a viewing, with only 1 person making an offer (the applicant), that there has been a sufficient time and opportunity for the property to have been sold within a C1 guest house use. Policy TOU DM1 does not specify a time limit for marketing the property beyond which planning permission would be granted for a change of use, moreover it only seeks evidence to show that no alternative use is viable.
- 3.3.4 The applicant has therefore demonstrated beyond the requirements of the wording of the policy that the application site is not viable or of any interest for another party to take ownership and occupy it within a C1 use. The current owner has expressed to us that the only interest to have been generated from the marketing of the site was to put it into some form of permanent residential use, such as a HMO. In this respect, the potential for other alternative uses has been explored and deemed to be unviable on the basis of no willing operator. With regards to criterion (g) of policy TOU DM1, the current owner still accepts the occasional guest to the property, and there is no evidence to suggest that the applicant has tried or sought to make the continued C1 use any less desirable than it already is.

3.4 INAPPROPRIATE LOCATION

- 3.4.1 Policy TOU DM1 of the Local Plan (2018) was adopted prior to the publication of paragraphs 87 and 88 of the NPPF (2021). Paragraph 219 of the NPPF states:

Due weight should be given to them (existing policies in a plan that pre-dates the NPPF), according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- 3.4.2 Paragraphs 87 and 88 make it clear that main town centre uses should be located within town centre locations. The glossary of the NPPF (2021) includes all C1 uses within the definition of a 'main town centre use'. Consequently, one would expect that policy TOU DM1 would have regard to the desire to provide tourist and visitor accommodation within a location of most accessibility and sustainability, rather than to seek to retain C1 uses notwithstanding their location or proximity to the main facilities available to tourists within the town.

- 3.4.3 We have set out the accessibility of the site and its relationship with the town centre within paragraph 1.1.3 of this statement. The site is at least 400m north-west of the town centre boundary and is geographically and in a character sense, located within an out of town residential area in which there are no other class E uses or C1 uses. If one were to apply paragraph 88 of the NPPF (2021) to the site as a new proposal for a C1 use, it would be necessary to firstly go through some form of sequential assessment to demonstrate that there are no closer and more accessible locations available.
- 3.4.4 Whilst the applicant recognises that the application site is already within a 'main town centre use', and we are looking to change this to create permanent residential accommodation instead, it is nonetheless a material consideration to appraise whether this is the most appropriate location to try and retain a C1 use. The most recent and relevant planning policy within the NPPF indicates that this is not the right location for a main town centre use, or if it is the correct location then this should be evidenced by means of some form of sequential analysis or at least an appraisal of the accessibility of the site.
- 3.4.5 In its present form, we consider that the location of the application site is inappropriate for the C1 use to be retained, and instead more suitable locations should be found for hotel accommodation closer to the seafront and within the more vibrant town centre locations. In stating this, we would also refer to the unfettered C1 use of the application site, with no conditions controlling the use of the property, and the potential harm that this could cause to the amenity and peaceful enjoyment of neighbouring residential properties were the site to change ownership, and/or be intensified in such a manner that does not exercise planning control (such as through the addition of more bedrooms in lieu of the communal areas).

Report Prepared by:

James Hutchison BA MA MRTPI

Planning Director

Corbil Estates & Planning Ltd

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