

ALTERNATIVE USE ASSESSMENT / VIABILITY STATEMENT

APRIL 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 SUMMARY

1.1.1 This statement has been prepared in association with the former Planning Use Statement that we prepared in March 2022, and which was submitted to primarily address Local Plan policy TOU DM1. In that statement, we made the following case:

1. That section 38(6) of the Town and Country Planning Act 1990 requires that planning applications should be determined in accordance with the development plan, *unless material considerations indicate otherwise*. We made the case that the need for HMO accommodation was a relevant and important material consideration the weight of which was substantial and outweighed the restrictive policy of the development plan.
2. That, as policy TOU DM1 is a policy that has the effect of influencing housing supply it qualifies under the established case law of *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*) as a policy that should be applied flexibly having regard to the fact that the housing policies of the development plan are out of date and policy TOU DM1 serves to restrict housing land supply.
3. That notwithstanding the weight to be given to the supply of housing through the application proposals, the guest house in Victoria Drive is not located within the heart of the tourism area of Bognor Regis, and is someway to the north and in a very peripheral location having regard to the town centre and tourist attractions. Together with its unfettered use, this residential area is not the most appropriate location for a guest house, or in a location where such a use would be inherently sustainable.

1.1.2 Notwithstanding the above case that was put forward within the previous Planning Use Statement, which the applicant considers to be more than sufficient in view of the Council's current housing land supply shortage to give less weight to the requirements of policy TOU DM1 of the Local Plan, we have been advised by the LPA that more evidence is required specifically in respect of addressing the following bullet points of policy TOU DM1:

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.*

- 1.1.3 The evidence contained within this statement addresses the above bullet points (e) to (h) and finds that there are no other preferential uses for which the property should be put in the absence of a viable C1 use on the site, and the statement also demonstrates that despite marketing at a very reasonable and realistic level, there has been no interest from other parties to continue the operation of the site within a C1 use. Consequently, irrespective of whether the LPA applies full and inflexible weight to policy TOU DM1, the application complies and consequently planning permission should not be frustrated on this basis.

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 ALTERNATIVE USE AND VIABILITY EVIDENCE

3.1 (e) 'that alternative visitor uses have been fully explored'

- 3.1.1 Under this bullet point of policy TOU DM1, the LPA is seeking an Alternative Use Assessment from the applicant in terms of whether other options for the use of the property have been explored in the absence of the C1 use of the site. In order to undertake this assessment, we clearly have to discount all 'C' class uses because neither C2 (residential care home) or C3 (self-contained residential dwelling) uses would attract visitors. A C4 use would also have to be discounted on the basis that this is the use for which the application is already seeking.
- 3.1.2 The following use classes have also been discounted because of the absence of any 'visitor attraction' meaning that they would be no more compliant than the proposed C4 use. In the case of uses such as F1(d) and F1(e), these are generally uses which serve the local resident population rather than tourists, and in any case the property does not lend itself to this form of use in terms of its layout which remains predicated on a dwelling house. The F2 uses stated under this table relate to local community facilities and consequently, by definition, these are not tourist or visitor attracting uses which are otherwise listed in use class F1.

Use Class	Description
B2	General Industrial
B8	Storage and Distribution Centre
F1(a)	Education
F1(d)	Public Library
F1(e)	Public Hall or Exhibition Hall
F1(f)	Religious Hall or Centre
F1(g)	Law Court
F2(a)	Shop for Local Community (<280sqm)
F2(b)	Halls or Meeting Places for Local Community

- 3.1.3 The following uses may qualify within the definition of a 'visitor attraction', however without exception none of these uses would ordinarily be considered to be appropriate within a residential area outside of the town centre and in a remote location to any other form of visitor or tourist attraction. One can readily discount F2(c) and (d) uses on the basis that the site is of the insufficient size to provide sport facilities, and one can readily discount all sui-generis uses listed because of their propensity to attract large numbers of visitors, thereby causing considerable noise and disturbance within a wholly residential area. In terms of F1(b) and (c), again the site is not located within a tourist part of Bognor Regis and is outside of the town centre. In addition, there has been no interest recorded by the agents who have actively marketed the property for the use of the site as an art exhibition centre or museum.

Use Class	Description
F1(b)	Display of Works of Art
F1(c)	Museum
F2(c)	Outdoor Sport and Recreation
F2(d)	Indoor or Outdoor Swimming Pools and Skating Rinks
Sui-Generis	Theatre, Amusement Arcades, Hostels, Nightclubs, Casinos, Public Houses or Drinking Establishments, Hot Food Takeaways, Live Performance Venues, Cinemas, Concert Halls, Bingo Halls, Dance Halls

3.1.4 The only remaining use for the application site that would leave it within a use that maybe perceived as being suitable for tourists or as a visitor attraction is one or more of the Class E uses. The only Class E uses that may attract tourists or visitors to the area are class E(a) retail or class E(b) cafes or restaurants. It is unrealistic to expect that either of these uses could be sustained in such a peripheral location to the beachfront and outside of the town centre boundary. The siting of retail uses such as those within a class E(a) or (b) use should be aimed at town centre locations in accordance with any reasonable findings from a retail sequential test. There is an abundance of empty retail units within Bognor Regis town centre that would be sequentially preferable compared with the use of the application site for class E purposes.

3.1.5 Our Alternative Use Assessment (AUA) does not demonstrate that there are any other planning uses which would be more suitable to being located on the application site, and which would result in the retention or promotion of a visitor attraction. The marketing evidence presented within this statement also supports our case on the basis of there being no interest shown by potential buyers in using the application site for any other form of visitor attraction. Consequently, we can confirm that criterion (e) is satisfied.

3.2 *(f) 'an appraisal indicating that the use is no longer viable'*

3.2.1 The most robust form of evidence as to the viability of a site within its existing use is the intentions of the current owner or operator to continue the said use, or alternatively the evidence accrued through a period of marketing activity as to interest from future owners. In the case of Selwood Lodge, we have both forms of evidence with the current owner explaining her reasons for discontinuing with the operation of the guest house, and the marketing agent's summary of the level and nature of interest in the property from potential buyers.

3.2.2 A summary of the position of the current owner and operator of Selwood Lodge is below:

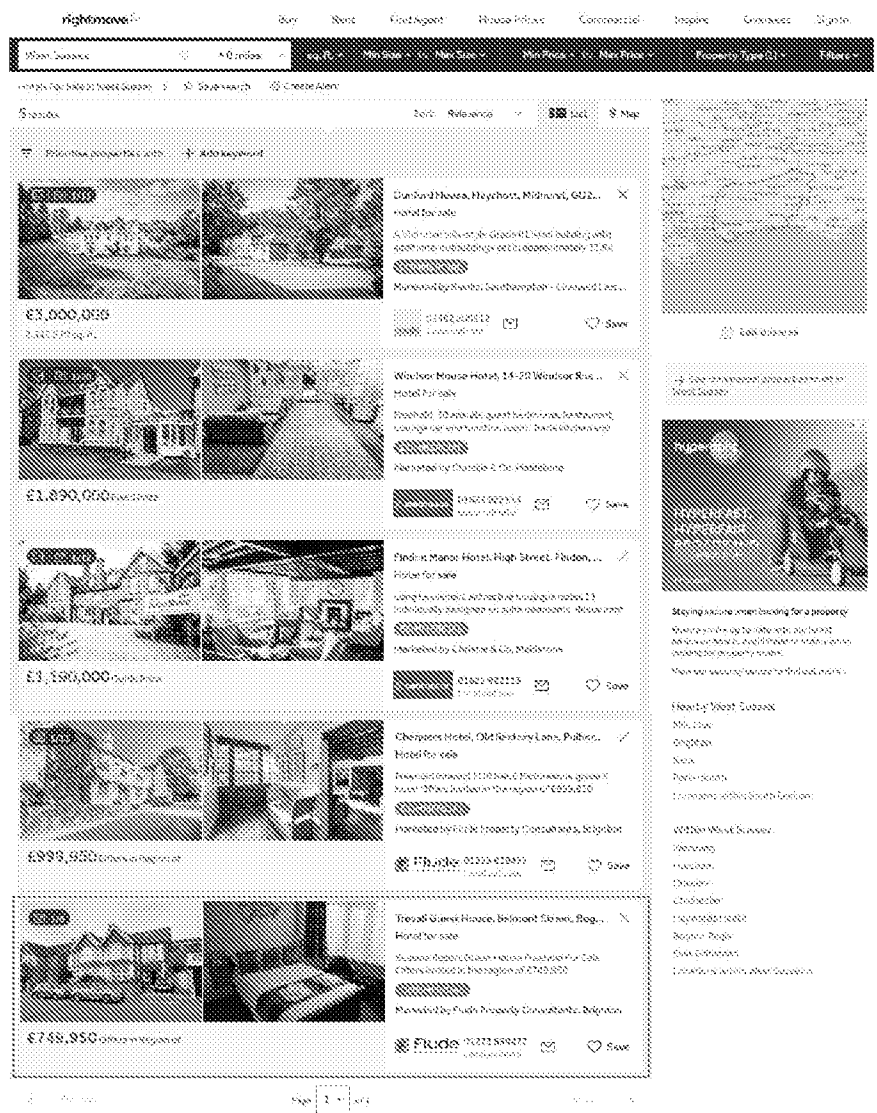
- The property was run as a guest house for a period of 46 years by the owners (husband and wife), however owing to their age and health problems, since 2018 they have been looking to sell the property and retire.
- In 2018, the current owners instructed Christie and Co. (a specialist company in the buying and selling of commercial entities and businesses with a hotel sector) to sell the property in its guest house use as a going concern.
- Christie and Co. actively marketed the property from 2018 until the pandemic of April 2020 with the only interest during this period being from potential buyers that wanted to change the use of the property to a HMO use.
- The owner took the business off the market with Christie and Co. owing to the inability to be able to sell a hotel use during the pandemic and periods of lockdown. For example, there was a distinct lack of interest in purchasing hotel businesses that could not operate owing to actual/ the threat of repeated lockdowns. In any case, it was difficult for potential buyers to visit the property owing to Covid-19 rules and sheltering issues to safeguard the health of the owners.
- The current owner then placed the property back onto the market for general sale with Fleurets in September 2021 (once the main effects of Covid-19 had begun to lift). The details of the marketing activity since September 2021 are contained within paragraph 3.2.3 below, however as with the marketing between 2018 to 2020, there has been no interest in operating the guest house as a going concern.
- The guest house officially closed on 15 April 2022.

3.2.3 In September 2021, the current owner of Selwood Lodge instructed Fleurets to market the property. The property was advertised as a 6 bed guest house with 3 bed owner's accommodation. It was put on the market in October 2021 with a guide price of £ 710,000. A

copy of the marketing brochure is attached in **Appendix A**. We would draw the LPA's attention to the following aspects of the marketing activity by Fleurets:

- Initial alert sent to 5,071 parties on the Fleurets database
- 344 downloads of the marketing brochure
- National and local alerts were sent out (see copies in **Appendix B**)
- A viewing session was established on 17 January 2022 with only 2 parties attending on that day, and another two viewings undertaken on separate occasions
- No interest was shown by any party for the continued use of the property within a C1 use, with the majority looking to convert the property into a residential use
- Terms were agreed with the applicant on 31 January 2022 on a STPP basis (for a HMO use currently the subject of this application) but the property has remained on the market to the current day with no further interest shown.

3.2.4 To demonstrate that Selwood Lodge has been marketed at a realistic level, we have carried out a contemporary Rightmove search for C1 uses that are for freehold sale within the local area, and this has produced the following results:



3.2.5 Unlike Selwood Lodge, Trevali Guest House (in red) is located in Belmont Street which is only 100m direct walking distance from The Esplanade and is within easy access to all of the tourist functions along the beachfront and the shops and services of the town centre. This guest house provides 7 en-suite bedrooms and separate owner's accommodation, which is broadly

on par with Selwood Lodge. It has been on the market at £ 749,950 since December 2021. This is the only broadly equivalent guest house to Selwood Lodge within the area, and using it as a direct comparable, it confirms that the application site has been marketed at a realistic level. We have included the marketing brochure for Trevali Guest House in **Appendix C**.

- 3.2.6 In conclusion, the fact that the current owner has closed the business this month and a guest house is no longer operating from the site puts the continued use of the property in its current hands beyond any realistic expectations. The level of marketing that has been carried out on the property since 2018, and particularly since the property re-entered the market at a very realistic price in September 2021, together with the complete lack of interest from any potential buyer as to the continued use of the property in a C1 use, demonstrates that the current use of the property is simply not viable anymore.
- 3.2.7 Furthermore, both the current owner and the marketing agent can confirm that there has been no interest from potential buyers in using Selwood Lodge for other tourist related activity or an activity that would satisfy the objectives of policy TOU DM1 in terms of attracting and retaining visitors to Bognor Regis. No one expressed any interests in purchasing the application site except for those that were looking to convert the property into a residential use. It should therefore be accepted by the LPA that as a result of the marketing exercise, it is demonstrable that there is no viability for an alternative and non 'C' class use on the site.

3.3 *(g) 'evidence that the site has not been made deliberately unviable'*

- 3.3.1 The current owner of Selwood Lodge has worked hard to continue with the use of the property as a guest house, however owing to her age and health concerns, it is simply not possible for her to continue with the operation of the business. The guest house business has been operated from Selwood Lodge as a family concern for 46 years, and it is certainly not the intention of the current and historic owner of the property to deliberately neglect the building or accommodation, or knowingly and recklessly leave it to fall into a state of disrepair.
- 3.3.2 The business continued up until 15 April 2022 (during the lifespan of the current application), and the cessation of the use has nothing to do with a deliberate or concerted effort by any party to make it unviable. Officers can see from their own visit to the property that nothing has been done to make the site unsuitable for use as a guest house. It is simply the case that no-one wishes to operate the property as a guest house anymore.

3.4 *(h) 'evidence of the suitability of the site to accommodate the alternative use'*

- 3.4.1 We have conducted an Alternative Use Assessment (AUA) within section 3.1 of this statement. The present lawful use of the site is C1 (guest house) and any other 'C' class use (i.e. C2, C3 or C4) would not relate to a tourist or visitor attraction but permanent residential accommodation, and so would equally fail to comply with policy TOU DM1.
- 3.4.2 The AUA also confirms that there are no other use classes that would be preferably located on the application site, with all other tourist or visitor generating uses being directed towards sequentially preferable locations in the town centre or by the beachfront. This is notwithstanding the fact that under section 3.2 we have demonstrated sufficient evidence to show that there has been no interest from potential buyers looking to retain a tourist or visitor type of use on the application site.
- 3.4.3 In conclusion, even were there to be a preferable alternative use for the application site in terms of planning policy alone, no-one has been forthcoming through the extensive marketing exercise undertaken to actually operate such a use. It is not necessary for the applicant to go

on and consider in anymore detail the suitability of the application site for an alternative use, because it is clear that there is no preferable alternative use and no interest in one either.

- 3.4.4 The property was historically a dwelling house that was later incrementally converted into a guest house and it is located in a residential neighbourhood away from the tourist area of the beachfront and the town centre. The most appropriate use for the property is the purpose for which it was built, namely a residential use, and as we have already demonstrated in our previous Planning Use Statement, there is an abundance of evidence to demonstrate the need for HMO accommodation within Bognor Regis and the district as a whole.

Report Prepared by:

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Planning Director

Corbil Estates & Planning Ltd

April 2022