

Recommendation Report for Planning Permission

REF NO: BR/37/22/PL

LOCATION: Cordell House Rest Home
120 Victoria Drive
Bognor Regis
PO21 2EJ

PROPOSAL: Change of use from residential care home (Use C2) to a 10 bed House in Multiple Occupation (Sui Generis). This application is in CIL Zone 4 and is Zero Rated as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Permission is sought for the change of use from residential 7-bed care home (Use C2) to a 10 bed House in Multiple Occupation (Sui Generis). The front attached garage would be demolished, all existing chimney breasts would be removed and a new roof would replace the existing.
SITE AREA	489.80 square metres.
BOUNDARY TREATMENT	Brick wall and hedgerow to the rear, brick wall with a close board fencing on the top along southern boundary with close board gates (entrance to the site from Annandale Avenue), dwarf brick wall enclosing the front garden and the brick wall along the northern boundary.
SITE CHARACTERISTICS	A detached 2-storey dwelling on the corner connecting Victoria Drive and Annandale Avenue with a front garden of a good size and entrance to garage from Victoria Drive to the north and rather shallow rear garden with accessed from Annandale Avenue.
CHARACTER OF LOCALITY	The local street scene (the north-eastern end of Victoria Drive entering Chichester Road) consists of Victorian style buildings. The local building heights differ but most properties are built with two storeys and most having a residential use.

RELEVANT SITE HISTORY

BR/253/84	Change Of Use From Private Residence To That Of Rest Home	Refused 25-04-84
BR/888/84	Use Of Existing House To Accommoate 8 Elderly Paying Guests	ApproveConditionally 23-01-85

REPRESENTATIONS

Bognor Regis Town Council: Objection.

- Object to another application for an HMO.
- Due to a proliferation of smaller household typologies demand for parking has increased considerably which has led to amenity issues deriving from parking demands.
- Anti-social blocking of driveways and overspill parking on roads which have prevented emergency service vehicles from using nearby streets.
- Intensification of use, that adversely affects the character of the area, which would affect public and neighbouring amenities, contrary to Policies H SP4 and QE SP1 of the Arun Local Plan.

2 letters of objection received:

- Parking is virtually impossible, another 10 residents with only half having vehicles would add to this horrendous problem.
- No for parking of cars, Victoria Drive is a dangerous two way traffic road made difficult by street parking.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

- WSCC does not anticipate the change of use would result in a highway safety concern or give rise to a parking capacity issue.
- Other planning issues are addressed below.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC - Local Highway Authority (LHA): Does not consider this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (NPPF).

ENVIRONMENTAL HEALTH: There is no consideration for the provision of waste receptacles for general waste or recyclables. No objection subject to suggested conditions.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

- Zone B Pagham Harbour Buffer (5km)
- 2km Buffer of Bognor Reef Site of Special Scientific Interest
- 2km Buffer of Felpham Site of Special Scientific Interest
- Built-up Area Boundary
- WSCC Mineral Consultation Area

DEVELOPMENT PLAN POLICIESArun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DDM4	D DM4 Extensions&alter to exist builds(res and non-res)
DSP1	D SP1 Design
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
HSP4	H SP4 Houses in multiple occupation
QEDM1	QE DM1 Noise Pollution
QESP1	QE SP1 Quality of the Environment
SDSP2	SD SP2 Built-up Area Boundary
TDM1	T DM1 Sustainable Travel and Public Rights of Way
WDM3	W DM3 Sustainable Urban Drainage Systems
WMDM1	WM DM1 Waste Management

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 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.

There are no relevant policies within the Bognor Regis Neighbourhood Plan to the determination of this application.

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 does not comply with relevant Development Plan policies in that the roof replacement fails to be visually integrated with the host building in massing and design. In the absence of a signed s106 agreement relating to the recreational impact of the development on Pagham Harbour the development would fail to appropriately address the impact caused contrary to ENV DM2 of the Arun Local Plan causing harm to the importance and habitat of the area.

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

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

KEY ISSUES:

The key issues are principle, change of use, design and visual/residential amenity, space standards, highways/traffic, and impact on the Pagham Harbour.

The site is in the Built-Up Area where development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan (ALP) provided it accords with other policies of the Local Plan covering such issues as change of use, visual/residential amenity, highway safety and parking. The key policies of the Arun Local Plan are D SP1, D DM1, D DM2, H SP4 and T SP1 of the Arun Local Plan and relevant paragraphs of the NPPF.

Policy D SP1 of the Arun Local Plan requires development to make efficient use of land reflecting the characteristics of the site and local area and policy D DM1 states that a high standard of architectural principles should be demonstrated, and new development should have a minimal impact to users and occupiers of nearby properties and land. Policy D DM2 expects internal spaces to meet the requirements of Nationally Described Space Standard. Policy H SP4 deals with Houses in Multiple Occupation.

Regard should be had to policy SD SP1 of the Arun Local Plan which states "When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF)." Para 120 (d) of the NPPF states that planning policies and decisions should "promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained, and available sites could be used more effectively". Paragraph 124(d) NPPF requires planning policies and decisions to support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting.

The proposal is acceptable in principle given its location in a sustainable location within walking distance of a range of shops, facilities and services. There are frequent bus services on Chichester Road and the site is in walking distance of Bognor Regis Railway Station. The development utilises a site which was historically used as class C2, 7-bed care home. The proposal is for the conversion to a 10 bed HMO (sui generis) above 3 floors and would contribute a single additional dwelling towards the Council's annualised housing targets in a period where a shortage of housing land has been identified. Such an approach is generally supported by policies SD SP1 and SD SP2 of the Arun Local Plan and NPPF.

The NPPF's para. 12 requires that up-to-date Development Plan policies are the starting point for decision-making. In this case the relevant policy is Local Plan policy H SP4 which is considered to be up to date.

Policy H SP4 (ALP) states where applications for houses in multiple occupation are not covered by permitted development rights, they will be favourably considered where proposals contribute to the creation of sustainable, inclusive, and mixed communities and meeting the detailed 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.

In applying these criteria to proposals, para 12.5.1 of the Local Plan makes clear that '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'.

Paragraph 12.5.2 stresses that a large concentration of housing in multiple occupation can have a significant and potentially damaging impact on the amenity of a local area. This can be of particular concern in areas such as Arun where the numbers of seasonal workers are high.

Paragraph 12.5.5 of the Local Plan also makes clear that 'larger households tend to generate more refuse, regardless of whether the property is occupied by a single family or in multiple occupation.'

A further HMO would result in an increase of population in an already densely populated area. The impact of that and compliance with HSP4 a. are discussed below.

The use is incomparable to the C2 use and is materially different. Care Homes operate in a more controlled and holistic manner with single deliveries serving the whole building for food, a significantly reduced number of courier deliveries and visiting persons to residents being strictly controlled and they provide employment. They do not contribute to the generation of excessive parking demands or traffic in an area. This is in significant contrast to the functional operation of buildings with multiple occupation. In principle, each HMO room functionally operates as its own self-contained residential unit of accommodation. It would generate its own waste requirements, own deliveries from couriers and own food deliveries.

The applicant in their Design and Access Statement points out on a vehicle parking survey which has been conducted and shows that there would be enough roadside parking to accommodate the needs for the 10 bed HMO.

As assessed in sections below, no wider adverse highways impacts would result and no objection has been raised by WSCC Highways. The LPA is required to assess any impacts on amenity deriving from the parking demands created.

The development would not result in the generation of excessive parking demands resulting in demonstrable harm to the amenity of the locality; therefore it would not be contrary to criterion (b) of Policy H SP4 of the Local Plan.

The development includes an area of private amenity space to the rear (11m deep 16m wide). No layout showing provision of bin storage (as described in submitted DAS) has been provided. One small outbuilding (shed for bicycles) at the end of rear garden is shown on submitted Site Plan. The development can accommodate at least 19 people. Notwithstanding above, the property is a 8 minute walk to Hotham Park and other parks in the locality. The development would be in a general conformity with criterion (c) of Policy H SP4 of the Local Plan.

On the basis of the above, the development is in a general conformity with Policy H SP4 (criteria b and c) of the Local Plan.

IMPACT ON CHARACTER OF AREA:

The approach of the LPA will be to decide whether the HMO, as opposed to a care related use, is acceptable. 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 (para 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."

Given the previous, albeit different use, and the scale of the proposed HMO the development does not, by reason of its use, cause harm to the character of the area and complies with H SP4 (a).

DESIGN AND CHARACTER

Policy D DM1 of the Arun Local Plan requires that the Council have regard to certain aspects like a reflection or improvement upon the character of the site and the surrounding area, in terms of its scale, massing, aspect, siting, layout, density and design features and maintaining character and local distinctiveness. Policy D SP1 requires all development proposals to make efficient use of land but reflect the characteristics of the site and local area.

Policy D DM4 of the Local Plan requires accordance with 5 point criteria when assessing applications for extensions and alterations to existing buildings.

The Arun Design Guide Supplementary Planning Document (SPD) adopted on 25th January 2021 is a material consideration in the determination of applications. Part M deals with extensions requires the scale, massing and positioning of extensions should be visually subservient to the existing property to ensure the latter remains the dominant form; privacy can be maintained by locating and designing windows to prevent overlooking. Extensions should preserve the amenity of the original and neighbouring properties in terms of privacy and overshadowing.

Para 130 of the NPPF expects planning policies and decisions to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

There are significant changes to the appearance of the property. The works remove the garage on the front elevation, creating space for an additional window. Whilst the applicant highlights that the works intend to keep the existing Victorian style, all existing chimney breasts, the important feature of Victorian style would be removed and a new roof, considerably higher and different than existing (a 45-degree angle would remain on the expense of a new roof with rather large crown.) The ridge of the new roof would be considerably higher, levelled off and out of proportion.

Two substandard bedrooms (served with a pair of rooflights only) would be provided in a roof space. However, this would be at the expense of a harm to the character and dynamic of the existing Victorian roof. The loft conversion (re-built roof) would involve a new dormer to the rear of the building, serving a new staircase, accompanied by two rooflights in the rear pitch on either side.

The roof conversion would fail to be visually integrated with the host property in massing and design. The proposal due to its dominant corner position within a public views would fail to respect, improve and enhance the existing surrounding environment and therefore not comply with Arun Local Plan policies D DM1, D SP1, D DM4, the Arun Design Guide and with the guidance on character within the NPPF.

NOISE & RESIDENTIAL AMENITY:

Arun Local Plan policy D DM1 indicates permission will only be granted for schemes displaying high quality design and layout and it takes into account impact on adjoining occupiers, land, use or property by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance. The Council requires in policy QE SP1 all development to contribute positively to the quality of the environment and ensure that development does not have a significantly negative impact upon residential amenity and policy QE DM1 seeks to protect against the impacts of new noise generating development.

Supporting text (para. 12.5.4) to HMO policy H SP4 indicates that many properties are capable of accommodating a modest increase in occupancy which may well give rise to noise and disturbance.

Para 130(f) of the NPPF expects decisions to ensure that developments create places with a high standard of amenity for existing and future users. Paragraphs 120, 125(c) and 127(f) are consistent with Arun Local Plan policies in that they seek to deliver appropriate development without being to the detriment of existing residential amenities.

The change of use from a 7-bed care home into 10 bed HMO (capable of accommodating at least 19 people) gives rise to considerable increased occupancy and significant intensification of the use of the property. Whilst the HMO use would result in an increase in external activity and thus, increase in noise levels, the use would be residential in character and have similar characteristics to residential properties in the locality.

There are no additional habitable windows at the first-floor level. The dormer window would be approximately 30m from the rear elevation of property facing to Annandale Avenue. Given the position of the property, an existing boundary treatment and the character of locality it is not considered the proposal would cause unacceptable loss of privacy to users and occupiers of nearby properties.

The proposal would have minimal impact to users and occupiers of nearby properties considered to result in adverse harm on neighbouring amenity by way of overshadowing, overbearing or overlooking and as such accords with D DM1, QE SP1 of the Arun Local Plan and par 130(f) of the NPPF.

PARKING, TRAFFIC AND HIGHWAYS IMPACTS:

Policy T SP1 of the Arun Local Plan requires development proposals to provide safe access on to the highway network and to incorporate appropriate levels of parking in line with adopted planning policies. The ADC Parking Standards (SPD) sets out the vehicle/cycle and EVCP parking standards.

HMO policy H SP4 requires that HMOs (b) Do not contribute to the generation of excessive parking demands or traffic in an area.

The applicant proposes to provide cycle storage and 2 car parking spaces. A car parking survey conducted on the neighbouring residential streets reveals that out of the total 299 parking spaces, only 200 were occupied which gives a 66% occupancy rate: according to requirements of ADC Parking Standards, Principle 2.13.

WSCC does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network. The proposals would be in a general conformity with policies T SP1, T DM1 and H SP4(b) of the Arun Local Plan and ADC Parking Standards.

PROVISION OF INTERNAL SPACE FOR PROPOSED FLATS AND HMO OCCUPANTS:

Policy D DM2 of the Arun Local Plan states that the planning authority will require internal spaces to be of an appropriate size and that the Nationally Described Space Standards apply.

The Technical Housing Standards (Nationally Described Space Standard) does not provide relevant standards for Houses in Multiple Occupation. Regard should be had to Arun's Environmental Health Private Housing Standards.

The Council's Private Sector Housing Officer has not commented but if the use does not meet the HMO Standards, this is likely to be identified as a hazard under the Housing Health and Safety Rating System (HHSRS). The HMO Officer can provide general advice in respect of fire safety, ventilation and legislation requirements.

The proposed development, in planning terms, offers sufficient internal and external space and therefore complies with H SP4.

WASTE STORAGE PROVISION:

Policy WM DM1 of the Arun Local Plan affirms new residential development, including conversion of one dwelling into multiple units, will be permitted provided that it is designed to ensure that kerbside collection is possible for municipal waste vehicles and communal recycling bins and safe bin storage areas are available to residents of flats.

No site layout has been provided. Within DAS the applicant states: 'Each unit will be provided with 75 litres for bin storage and the same amount of storage is to be provided for recycling. This will be achieved by providing 1no. 1100 litre bins for waste and 1no. 1100 litre bins for recycling'.

Details of the bin storage enclosure can be conditioned, therefore the development could comply with policies WM DM1 and H SP4 (para. 12.5.5) subject to condition.

IMPACT ON THE PAGHAM HARBOUR SPECIAL PROTECTION AREA:

ALP Policy ENV DM2 requires new residential developments within a 400m to 5km distance ('Zone B') of Pagham Harbour make a financial contribution towards the provision of accessible natural open green spaces to serve the area. A contribution of £871 per new residential unit was agreed by the Councils Cabinet on 10th April 2017.

The site lies in designated Zone B and this application results in a net increase in residential accommodation, impacts to the coastal Special Protection Area(s) and Ramsar Site(s) may result from increased recreational disturbance. The application results in recreational disturbance only to Pagham Harbour. Having considered mitigation and avoidance measures to be provided in-perpetuity through the contribution to the Joint Pagham mitigation scheme, Arun District Council conclude that with mitigation the plan or project will not have an adverse effect on the Integrity of the European protected site(s).

On the basis of a net gain of 1 unit the £871 contribution should be paid. This has not been secured by the agreed Section 106 agreement and there is conflict with policy ENV DM2 of the Arun Local Plan.

BIODIVERSITY:

Policy ENV DM5 of the Local Plan requires development schemes shall seek to achieve a net gain in biodiversity and protect habitats on site. They shall incorporate elements of biodiversity including green walls, roofs, bat and bird boxes as well as landscape features minimising adverse impacts on existing

habitats (whether designated or not).

The proposal is for a change of use and a roof extension. Submission of further information demonstrating what will be included within the scheme and what level of net gain will be created is required.

The opportunity to increase biodiversity and mitigation measures can be secured via conditions and complies with ENV DM4.

OTHER MATERIAL CONSIDERATIONS:

On the basis of the Councils Authority Monitoring Report (AMR) from January 2022, the policies most important for the determination in the ALP have reduced weight as Arun cannot demonstrate an adequate supply of housing land (HLS). Due to the HLS being below 3 years (2.42 years) and its age, the BRNDP does not benefit from the support set out in para 14 of the NPPF. The NPPF presumption in favour of sustainable development is therefore unaffected by the Neighbourhood Plan.

Paragraph 11 (d) ii) of the NPPF states where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date (including for housing applications, where the Council cannot demonstrate a five year supply of deliverable housing sites), planning permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

The NPPF contains several material considerations. In its latest revision on 20 July 2021, the Government significantly strengthened its position on the use and application of design guides in the determination of planning applications. Specifically, para 128 now makes clear that "to provide maximum clarity about design expectations at an early stage, all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, which reflect local character and design preferences." In this instance, the LPA has undertaken this extensive work which aligns with the requirements of the NPPF.

Para 129 of the NPPF details how such Design Guides should be applied at decision taking level: "Design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as a supplementary planning document". In this instance, the ADC Design Guide comprises a formally adopted SPD. Following para 129, it carries weight in decision-making. To make this position abundantly clear, para 134 states:

"Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes."

Whilst the LPA acknowledges the applicant's intention of using the site effectively, safeguards such as Design Guides are adopted by Local Planning Authorities to ensure development would not result in an unbalancing of existing communities by the narrowing of household types towards domination by a particular type, such as shared housing.

CONCLUSION

The proposal is for a significant intensification of use which is supported by the above policy and para 120 (d) of the NPPF. However, the extension to the roof would result in significant harm to the character

of the host building and consequently to the surrounding area given the dominant position of the proposal property. The applicant has failed to complete S106 Agreements with regards to Pagham Harbour mitigation measures.

This report has balanced this harm against other material considerations, including that of the contents of the NPPF. Whilst it is acknowledged that the NPPF gives some support to using sites effectively, this material consideration is not of sufficient weight to demonstrably outweigh the areas of harm identified above in both Development Plan and the NPPF.

HUMAN RIGHTS ACT

The Council in making a decision, should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

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.

SECTION 106 DETAILS

The decision would be granted with a S106 legal agreement relating to a contribution of £871 towards the cost of delivering measures to avoid or mitigate to an acceptable level, the harm caused to Pagham Harbour by the Development. No signed s106 exists.

CIL DETAILS

This application is CIL Liable therefore developer contributions towards infrastructure will be required (dependant on any exemptions or relief that may apply)

RECOMMENDATION

REFUSE

- 1 In the absence of a signed s106 agreement relating to the recreational impact of the development on Pagham Harbour the development would fail to appropriately address the impact caused contrary to ENV DM2 of the Arun Local Plan causing harm to the importance

and habitat of the area.

- 2 The roof, by virtue of its design, height and form would be out of character and have a significantly harmful impact upon the host dwelling and character and appearance of the locality in conflict with policies D SP1, D DM1 (1) , D DM4 (a), (b), & (e) of the Arun Local Plan, Section M of Arun Design Guide and paragraphs 129 and 134 of the NPPF.
- 3 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.