

Recommendation Report for Planning Permission

REF NO: BR/91/22/PL

LOCATION: 32 Richmond Avenue
Bognor Regis
PO21 2YE

PROPOSAL: Changing a current HMO from 6 persons to 9 persons

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Permission is sought for the change of use of a detached house in a small house in multiple occupation (HMO) C4 use to a sui generis HMO for 9 persons. The proposal would not alter the structure of the building. The HMO would consist of one bedroom on the ground floor, three on the second floor and one within a roof space. There is one bathroom, toilet, utility room, a shared kitchen and lounge on the ground floor, toilet, and bathroom on the first floor and a storage room in a roof space. No changes are to the external appearance.
	There is no vehicular access associated with this development, no parking is provided on the site,
SITE AREA	78.27sqm
BOUNDARY TREATMENT	Dwarf brick walls with pillars to the front, close boarded timber fence to the sides and to the rear.
SITE CHARACTERISTICS	Two storey detached property with gabled front projection and hipped roof with front flat roofed dormer and an open timber framed porch. The front garden is laid in lawn.
CHARACTER OF LOCALITY	Residential. Characterised by 2 - 2.5 storey detached residential buildings of a similar appearance along the northern side and terraced on the southern side. close to the highway in a continuous built form. Immediately to the east of the site is a 7 bed HMO and Ravenna (HMO) on the junction with Elm Grove.

There is no relevant history for this site.

REPRESENTATIONS

Bognor Regis Town Council: No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

PRIVATE SECTOR HOUSING: No objection. Full comments are online. Any property that has 5 or more people sharing facilities requires a license. Housing standards, including room sizes and facilities must be complied with.

WSCC HIGHWAYS (LHA): Under WSCC Parking guidance there is no longer a standard for HMO. Within the previous WSCC Car Parking Standards the anticipated demand for HMO is half space per room, in this case 3 parking spaces. The LHA will only consider the impact of overspill parking from a safety perspective. Matters of amenity would be a matter for the consideration of the Local Planning Authority. The LHA 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.

ADC ENVIRONMENTAL HEALTH: No objection subject to suggested condition regarding to Construction Hours.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Within the Built-Up Area Boundary.
Prone to Ground water Flooding;
Superficial Deposits; and
Pagham Harbour Zone B.

DEVELOPMENT PLAN POLICIES**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.

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 would fail to comply with the Arun Local Plan in that an insufficient information has been provided to demonstrate that there is a sufficient capacity to accommodate the expected parking demand in existing streets without causing harm to the amenity of neighbouring properties contrary to policies T

SP1 (d) and QE SP1 of the Arun Local Plan. The proposal fails to provide the necessary mitigation measures in respect of the Pagham Harbour SPA contrary to ENV DM2 of the Arun Local Plan.

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

PRINCIPLE:

The site is in the built-up area boundary 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 proposal is acceptable in principle given its location in a sustainable location within a short walk from a local shopping parade. Since the proposal is for a change of use from class C4 to a sui generis HMO, the proposal should be assessed against ALP policy H SP4.

Policy H SP4 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.

These criteria are discussed below, but it is concluded that the proposal is compliant with the criteria.

CHARACTER OF THE AREA:

Regarding criterion (a) of policy H SP4, there are existing HMOs in this area. Within a 100m radius of the site there are 7 HMOs: Ravenna Richmond Avenue, Nos 34, 28, 9 Richmond Avenue, 110&11a Aldwick Road and 120-124 Aldwick Road (Ashley House).

The character of the locality has an increased density derived from recent conversions of housing stock into smaller household types and conversions to HMO's. 32 Richmond Avenue is already in use as a small HMO under use class C4. There would be 3 additional residents above the C4 allowance (shared dwelling houses occupied by between 3-6 unrelated individuals does not require permission).

The building is two storeys with a front projection with a gable roof and hipped roof above the main building, a light blue render finish walls and Tudor features. No external changes are proposed.

The area is solely residential. There are purpose-built flatted buildings on Richmond Avenue and Care Home. A slightly larger number of residents in the dwelling would not be out of character in this location. The development would not result in an unacceptable increase of population in this area and would not affect its character.

Paragraph 12.5.5 of the Local Plan (HMO) 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.' Therefore, there should be no discernible difference in waste production between the existing and proposed uses.

Whilst the applicant in their form pointed out that this is a property with an outside refuse area (hardstanding, screened) for general bins and recycling and the house is occupied by six people, the plans do not show the location of existing bin storage. Adequate provision of bin storage can be conditioned.

The proposal broadly complies with ALP policies D DM1 & H SP4 (a) and with the guidance on character within the NPPF. Criteria (c) and (d) of policy H SP4 will be analysed elsewhere in this report.

RESIDENTIAL AMENITY INCLUDING NOISE POLLUTION:

ALP policy D DM1 requires there be minimal impact to users/occupiers of nearby property and land. Policy QE SP1 requires all development contribute positively to the quality of the environment and ensure development does not have a significantly negative impact on residential amenity. Policy QE DM1 seeks to protect against the impacts of new noise generating development.

32 Richmond Avenue has a C4 use which allows for the accommodation of at least 6 people in an HMO arrangement and the use would provide accommodation for up to 9 people. The use remains residential and will have similar characteristics to residential properties in the locality. A noise report and evidence are not required given the nature of the development which would result in only a slight intensification. The use will not adversely affect the residential amenity of the area in respect of noise pollution to a greater degree than a C4 use would do.

There are no external changes proposed, therefore there would not be any new overlooking impacts that would occur. The proposal therefore complies with ALP policies D DM1, QE SP1 and QE DM1.

HIGHWAYS, TRAFFIC AND PARKING:

ALP policy T SP1 requires development to reduce the need to travel by car by identifying opportunities to improve access to public transport services whilst making provision for safe access to the highway network. Policy T SP1(f) (iv) requires development to incorporate facilities for charging electric and plug-in hybrid vehicles. Policy H SP4(b) makes clear the provision of HMO's should not contribute to the generation of excessive parking demands or traffic in the area.

The Arun Parking Standards 2020 has no specific category for HMO use but at Table 3.1 shows the expected level of parking provision for residential development. In Zone 4 it is one parking space for a 1 bed unit and 1 cycle parking space per unit for 1 bed flats/houses. If nil car parking provision is proposed according to ADC Parking Standards, Principle 2.13 it will be necessary to demonstrate through a parking capacity survey that there is sufficient capacity to accommodate the expected parking demand.

No vehicular access exists and this application proposes no alterations to this arrangement. A nil car parking provision is proposed for the development, no parking spaces or secure and covered cycle

parking facilities are provided. The applicant failed to provide a parking capacity survey, required by the ADC Parking Standards.

The Local Highway Authority (LHA) only consider the impact of overspill parking from a safety perspective. Matters of amenity are a matter for the consideration of the Local Planning Authority. 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 proposal would fail to accord with ALP policies T SP1, T DM1 and with criterion (b) of policy H SP4, the ADC Parking Standards SPD (2020).

INTERNAL & EXTERNAL SPACE STANDARDS:

Both the ALP policy D DM2 and the Design Guide require that residential development provide sufficient internal living space to ensure a decent standard of amenity for future occupants. National standards do not provide relevant guidance for HMOs and as the proposal includes shared kitchen/dining accommodation, it is not appropriate to apply the standards for a 1 bed flat. Instead, reference is made to Arun's Environmental Health Private Housing Standards.

The standards reference the following documents: "LACORS Promoting Quality Regulation" (LGA) 2009 and "Chichester and Arun Landlord Accreditation Scheme Standards" 2013. The Chichester and Arun Landlord Accreditation Scheme Standards 2013 include requirements such as number of bathrooms/toilets, number of electric sockets per room, kitchen facilities, heating, waste disposal, energy efficiency and windows. The room size requirements are:

- (1) 6.5m² for a single bedroom where a lounge and kitchen or kitchen diner is shared.
- (2) 10m² for a single bedroom where a kitchen is shared without a shared lounge.
- (3) 10.5m² for a double bedroom where a lounge or dining room or sized kitchen diner is shared.
- (4) 12m² for a double bedroom where a kitchen is shared without a shared lounge area; and
- (5) 13m² for a one roomed unit with kitchen facilities for a single person.

In the case of this application, all rooms comply as the smallest bedroom is 13.2m² whilst the largest is 22.5m².

Policy HSP4, criterion c. requires the provision of adequate areas of open spaces. There is a garden of 136.5m² to the rear and there is easy access to nearby public open spaces like Marine Park Gardens and West Park at 450m and 480m. The sea is approximately 700m away. On this basis, the development complies with ALP policy H SP4(c) as the rear garden is of an acceptable size for up to 9 people.

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).

Based on 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 from a small HMO to a Large HMO. 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. Para 181 of the NPPF stresses the following should be given the same protection as habitats sites:

- a) potential Special Protection Areas and possible Special Areas of Conservation;
- b) listed or proposed Ramsar sites; and
- c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

Para 182 carries on: 'the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site'.

Natural England advises that the LPA has measures in place to manage these potential impacts through the agreed strategic solution which we consider to be ecologically sound. Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing harmful effects on the European Site(s) for the duration of the proposed development.

CONCLUSION

The proposal is for an intensification of use which is supported by the above policy and para 120 (d) of the NPPF. The applicant has failed to complete S106 Agreements with regards to Pagham Harbour mitigation measures and provide a parking capacity survey to demonstrate that there is sufficient capacity to accommodate the expected parking demand due to nil car parking provision.

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 for this.

CIL DETAILS

This application is not CIL liable.

RECOMMENDATION

REFUSE

- 1 Insufficient information has been provided to demonstrate that there is a sufficient capacity to

accommodate the expected parking demand in existing streets without causing harm to the amenity of neighbouring properties by way of increased conflict/competition for existing spaces and the need for residents to park further away from their dwelling. It is therefore contrary to policies T SP1 (d) and QE SP1 of the Arun Local Plan.

- 2 In the absence of a signed Section 106 agreement, the application fails to make a financial contribution towards the agreed strategic access management measures to mitigate the harm to the Pagham Harbour Special Protection Area and the proposal is therefore not in accordance with policies ENV DM1 and ENV DM2 of the Arun Local Plan.
- 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 discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.