

Recommendation Report for Planning Permission

REF NO: BR/97/22/PL

LOCATION: Former Royal Bay Care Home
86 Aldwick Road
Bognor Regis
PO21 2PE

PROPOSAL: Continued use of former Care Home (C2) as temporary accommodation for seasonal agricultural workers (resubmission following BR/213/20/PL). This site is in CIL Zone 4 (Zero Rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Following a temporary 12-month permission, this application seeks permission to make the use permanent. All other details of the proposal remain the same as the temporary permission.
SITE AREA	0.14 hectares.
BOUNDARY TREATMENT	Brick wall with railings sitting on the top of the wall backed by dense planting with a pair of traditional gates from wrought iron between gate piers to the front with statues on the top. The boundary to the rear and sides constitutes a brick wall.
SITE CHARACTERISTICS	The site comprises a substantially set back 3-storey red brick symmetrical building with gabled front projection on both sides of the principal elevation. The original building has been significantly extended to the side and to the rear, facing Oxford Street, filling almost the whole of the plot with the exception of a landscaped frontage and car park area accessed from Aldwick Road.
CHARACTER OF LOCALITY	Aldwick Road lies to the west of the Bognor Regis town centre and accommodates a range of local businesses, services, and residential uses. The site is on the corner with the residential street Nyewood Lane. It is enclosed by streets predominantly in residential use. Within a radius of approximately 100m from the site edges, there are seven known HMO uses supporting up to 84 people. Other permissions in the locality have allowed the conversion of former single occupancy buildings into flats and maisonettes. The character of the locality is one of higher density residential uses.

RELEVANT SITE HISTORY

BR/213/20/PL	Temporary change of use from Care Home (C2) to temporary accommodation for seasonal agricultural
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ApproveConditionally 02-12-20

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workers for 12-month period (re-submission following BR/138/20/PL). This application is in CIL Zone 4 (Zero Rated) as 'other development'.

BR/138/20/PL	Temporary change of use from Care Home (C2) to temporary accommodation for seasonal agricultural workers for 12-month period. This application is not CIL Liable (Zero Rated) as other development.	Refused 21-08-20
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BR/213/20/PL (for up to 58 seasonal workers and 2 members of staff) was approved for 12 months in December 2020. This followed an earlier refusal of temporary permission for 80 workers.

REPRESENTATIONS

Bognor Regis Town Council state no objection with the following comments:

- Members were pleased to read there had been no reports of complaints made since the change of use was permitted; and
- Members commented about how well the exterior of the property has been maintained, appearing clean and tidy, and wish to pass on their congratulations to the residents.

One letter of objection on the grounds that the area is becoming overwhelmed by this type of accommodation, and this adversely impacts upon long-term residents and the community as a whole.

One letter of support stating there are no problems with the current use and the management are very helpful and approachable.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. The issues raised by the objector are covered in the conclusions.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

WSCC HIGHWAYS - no objection and recommend no conditions. They raised no objection to the previous temporary permission and there has been no change to the access/parking/turning arrangements or the local highway conditions.

ENVIROMENTAL HEALTH - no objection providing the noise mitigation conditions on the existing temporary permission remain in place.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designations applicable to site:

- Built-up Area Boundary
- CIL Charging Zone 4
- Pagham Harbour Zone B
- 2km buffer of the Bognor Reef SSSI
- Current/Future Flood Zone 1
- Medium Groundwater Flooding Risk; and
- Article 4 designation ref 3/14/23.

DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
DSP1	D SP1 Design
ENVDM2	ENV DM2 Pagham Harbour
HSP4	H SP4 Houses in multiple occupation
QESP1	QE SP1 Quality of the Environment
SDSP1	SD SP1 Sustainable Development
SDSP2	SD SP2 Built-up Area Boundary
TSP1	T SP1 Transport and Development
WMDM1	WM DM1 Waste Management

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. There are no relevant Bognor Regis Neighbourhood Plan policies.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is for development within the Built-Up Area Boundary and would not cause demonstrable

harm to highway safety, local character or residential amenity.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

(a) the provisions of the development plan, so far as material to the application,

(aza) a post examination draft neighbourhood development plan, so far as material to the application,

(b) any local finance considerations, so far as material to the application, and

(c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE:

The site lies in the built-up area boundary (BUAB) where residential development is acceptable in principle in accordance with policy SD SP2 of the Arun Local Plan (ALP) and provided it is in accordance with other policies of the ALP covering such issues in this case as biodiversity, highway safety/parking, residential amenity, space standards, and impact on the Pagham Harbour Special Protection Area (SPA).

PLANNING POLICY ON HMOs:

The site lies within an area subject to Article 4 ref 3/14/23 which removed permitted development rights for small HMO uses. Whilst this restriction has no bearing on larger HMO uses for which permission is always required, it is material that the decision to make the Article 4 was on the grounds of concerns about the number of HMOs in certain parts of the district.

The background report ("Integrated Dwelling Level Housing Stock Modelling and Database for Arun District Council: Additional Analysis of the Private Rented Sector" by BRE, 21/09/22) identified that the Marine ward (in which the site is situated) has the highest number of HMOs (193 HMOs, 10% of private rented stock) in the entire Arun district. The same report identified that:

- Of the 23 wards in Arun, 7 have a percentage of private rented sector dwellings greater than the national average, in particular Marine (52.8%), River (40.5%) and Hotham (39.2%).
- Incidents of Anti-Social Behaviour in recent years (2019 and 2020) have been highest in River and Marine wards; and
- 75% of private rented dwellings in Marine ward are in the 20% most deprived Lower Super Output Areas (LSOA) in England, closely followed by 74% in River ward and 52% in Hotham ward (these are all notably higher than the figure for Arun's private rented stock as a whole (27%).

However, the development plan allows for HMO uses in the district and makes no reference to the above characteristics. It is material that permission has been granted on appeal for an HMO use on a site literally around the corner since the Article 4 was designated. This decision concerned the change of use of 41-45 Nyewood Lane for up to 52 residents (BR/86/20/PL). The Inspector acknowledged the Article 4 restriction but determined that "Even if the proportion of HMOs as a share of the overall housing mix would increase, together with the number of persons accommodated within them, the change would not be so significant that it would undermine the established character of the surrounding area."

ALP policy H SP4 allows for houses in multiple occupation (HMOs) provided the proposal contributes to the creation of sustainable, inclusive, and mixed communities and meets 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; and
- c. Provide adequate areas of open space.

The temporary permission was assessed as being acceptable with respect to character due in part to the former use of the building as a care home and its potential under use class rights to freely change to a variety of residential institutional uses including a hospital, residential school, another care home, college, or training centre. Whilst accepting that the number of other HMOs in the immediate area has increased since the previous temporary decision (owing mainly to the Nyewood appeal decision), it is clear from the evidence that this use has been operating with no harm to the community and the existing use simply maintains an existing high density residential use. The council's data on HMOs in the surrounding area does not suggest an over-concentration of such uses.

The Arun Parking Standards SPD has no specific category for HMO uses but requires 1 parking space for 1-bedroom flats with a separate requirement for visitor parking as a percentage (20%) of the total number of units. Taken literally, this would equate to a demand of 74 spaces, but this does not account for the fact that the accommodation is not flats and that people will be sharing rooms. The previous report stated:

- The majority of workers (estimated 80%) travel to their place of work by minibus.
- It is estimated that there will be circa 50 vehicle movements per day (i.e., 25 in and 25 out).
- The majority depart between 6:30am and 8am in the mornings and return between 15.30 and 17.30.
- Minibuses will be parked overnight on-site.
- Workers will have an allotted time for their morning minibus ride and wait for their minibus inside the building in their allocated communal areas.
- At the allotted time they will leave the building and get straight on the minibus in an organised fashion; and
- There will be no waiting outside.

The scheme demonstrates an on-site parking provision of 13 spaces which would cover the need for visitor parking as well as parking by on-site staff. This provision was accepted by the temporary planning permission and WSCC Highways raise no objections in respect of highway safety concerns. It is also material that the recent appeal decision on BR/86/20/PL raised no objections to a proposed zero parking provision.

Whilst the policy does not state a minimum area of amenity space that HMOs should provide, Part H of the Arun Design Guide (ADG) provides a guideline that communal shared spaces, such as shared external amenity space, should be a minimum of 40m², plus 10m² for each unit. Part H of the ADG also states amenity spaces should be of an appropriate size and shape to be useable and enjoyable.

Recent appeal decisions have contributed to guidance on this matter. The Nyewood Lane appeal determined that whilst the provision of 185.5m² (3.56m² per resident) was limited, and not adequate to service the full range of functions which might be expected of outdoor space in an ordinary domestic context, it was in excess of the spaces allowed by the council in respect of other HMO decisions. At that time, the Nyewood appellant stated the comparable figure for the Royal Bay Care Home was 41m² equating to 0.70m² per resident. Meanwhile an appeal concerning 83 Aldwick Road (BR/4/22/PL) made clear that 40sqm of outside amenity space is the starting point for HMOs although this should be useable and enjoyable.

The initial temporary permission assessed the available amenity space as being a single landscaped area in the south-western corner of the frontage. This corresponds with the amount quoted in the Nyewood appeal. The applicant has supplied additional details that confirm there are four external amenity spaces in the site including the afore mentioned space plus a similarly sized space on the eastern side, a first-floor balcony, and a covered area under said balcony. These areas equate to a total of approximately 133m² or 2.22m² per person.

This is less than in the Nyewood appeal determination but exceeds the starting point in the ADG (as re-affirmed by the 83 Aldwick Road appeal decision). In addition, it is material that the external spaces are useable and enjoyable, that the building has internal communal areas, that there are nearby public recreation areas within easy walking distance (Marine Park Gardens, West Park, the beach) and that no concerns were raised on the previous report (albeit this was on the basis of the temporary nature of the application).

Overall, whilst there is some conflict with the policy in respect of parking, there are material considerations that serve to outweigh any harm arising from this.

RESIDENTIAL AMENITY:

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. The Arun Design Guide sets out guidance on interface distances between dwellings. The site is surrounded by residential properties fronting Oxford Street to the north and adjacent to the west along Nyewood Lane with a mix of retail and commercial premises, including Tesco Express, to the east and south.

The submitted planning statement re-affirms the proposals made for the temporary permission concerning management of the use, namely that:

1. New team members are to sign an Accommodation Agreement which sets out rules and regulations concerning the use of accommodation.
2. Setting of a quiet time between 22:00 hours and 07:00 hours including no loud music and no gathering of residents in groups.
3. No use of the external amenity space between 22:00 hours and 07:00 hours.
4. Access from the main front entrance only.
5. No gathering of persons on the fire escape staircase.
6. Restriction on the times of the minibus pick up with the earliest arrival/departure no earlier than 06:30 hours.
7. Mini-bus engine to be turned off during pick-up & drop-off; and
8. The on-site accommodation of a Team Accommodation Manager/Warden.

These matters were previously and will again be the subject of a condition. These safeguards will ensure the accommodation meets acceptable standards, provides for a safe and secure home to the residents during their stay and help to protect the amenities of existing nearby residents. The applicant states that at no time have they been made aware of any harm or complaints concerning the use of the premises. The council's environmental health officers raise no objections to the continued use.

The temporary use of the premises for seasonal agricultural workers has not resulted in any significant adverse harm to the residential amenities of existing or future occupiers and it therefore follows that the continued use will not do so either. Therefore, the proposal is in accordance with the relevant ALP policies.

QUALITY OF ACCOMMODATION:

Both the ALP policy D DM2 and the Design Guide require that new residential development provide sufficient internal living space to ensure a decent standard of amenity for future occupants. The national standards do not provide any relevant guidance for HMOs and as such accommodation has shared living accommodation, it is not appropriate to apply the standards for a 1 bed flat.

Arun has its own Environmental Health Private Housing Standards, and this references the "LACORS Promoting Quality Regulation" (LGA) 2009 and the "Chichester and Arun Landlord Accreditation Scheme Standards" 2013. However, these standards are covered by separate legislation (they are assessed through the licensing regime). Therefore, this is not a material planning consideration and does not require assessment through the planning application.

HIGHWAY SAFETY:

ALP policy T SP1 seeks to ensure development provides safe access on to the highway network; contributes to highway improvements (where appropriate) and promotes sustainable transport. Schemes should accommodate efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, be accessed by high quality public transport facilities, create safe and secure layouts for traffic, cyclists and pedestrians and provide appropriate levels of parking.

Para 115 of the NPPF states: "In assessing ... specific applications for development, it should be ensured that: (b) safe and suitable access to the site can be achieved for all users". Para 116 states: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

WSCC Highways have not raised any objections and state the proposal would not 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 NPPF, and that there are no transport grounds to resist the proposal. The proposal is in accordance with the relevant development plan policies. Car and cycle parking has been discussed elsewhere in this report.

BIODIVERSITY:

ALP policy ENV DM5 requires that proposals achieve a net gain in biodiversity and protect habitats on site. The application is not accompanied by an ecological appraisal, and neither was the previous submission. However, existing buildings in town centres tend to have low potential as habitat for protected species therefore this is acceptable. Whilst it is still necessary to demonstrate biodiversity net gain, it is material that the proposal concerns the use of an existing building and there is no loss of any existing habitat.

PAGHAM HARBOUR:

ALP policy ENV DM2 requires residential developments in 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. The site lies in Zone B and so it is necessary to seek financial mitigation. This was not required with the previous application but is now so due to the permanent nature of the use. Arun DC's policy is to seek a contribution of £938 per net new dwelling but as HMO units are not normal dwellings (i.e. shared facilities), instead, every 3 HMO bed spaces are treated as 1 dwelling. Based on 60 bed spaces, this equates to a contribution of £18,760.

Normally, it would be necessary to discount the contribution by the previous use of the building but in this case, the previous care home would have generated no recreational pressure due to residents not having pets and being unable to independently leave the accommodation. However, the applicant has indicated that pets are not allowed within the HMO premises and since it is Arun's policy to discount the contribution by 50% where there are rules on no pets then it is appropriate to discount this contribution by 50%. It should be noted that the pet issue only relates to those animals that require exercise (so essentially just dogs). A condition will be imposed to prevent dogs being kept at the site.

The applicant has agreed to the revised contribution of £9,380 and a legal agreement has been prepared and completed to ensure this is paid. ADC are also required to assess the application with reference to the Habitats Regulations regarding the impact of increased recreational disturbance on the Pagham Harbour SPA & Ramsar Site. The council's assessment has been agreed with Natural England and there is no conflict with policy ENV DM2. A copy of this assessment is available to view on the website.

SUMMARY:

The proposed continued use of the property as an HMO is acceptable and in broad compliance with the relevant development plan policies and policy guidance. The proposal is therefore recommended for approval subject to conditions and the signed legal agreement.

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) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the 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

This decision will be granted in accordance with a s106 legal agreement which secures a contribution of £9,380 towards the agreed strategic access management measures to mitigate the harm to the Pagham

CIL DETAILS

This application is not CIL Liable due to there being no increase in residential floorspace.

RECOMMENDATION

- 1 The development hereby approved shall be carried out in accordance with the following approved plans:

- Location Plan dwg 20200616_273_royal-bay_site-location-plan-r01_SG.
- Site Block Plan dwg 20200903_273_royal-bay_site-block-plan-500-r02_SG.
- Site Plan showing Refuse Area dwg 20200903_273_royal-bay_site-block-plan-500-r02_SG.
- Proposed Ground Floor dwg 20200903_273_royal-bay_proposed-ground-floor-plan-r01_SG.
- Proposed First Floor Plan dwg 20200903_273_royal-bay_proposed-first-floor-plan-r01_SG.
- Proposed Second Floor Plan dwg 20200903_273_royal-bay_proposed-second-floor-plan-r01_SG; and
- Royal Bay (Application Reference BR/97/22/PL) - External Amenity Areas.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1, QE SP1 and T SP1.

- 2 This permission allows for the residential occupation of the building by up to 58 seasonal agricultural workers and 2 members of staff.

Reason: The application had been determined having regard to a maximum number of occupants and for the avoidance of doubt in the interests of amenity and the environment in accordance with Arun Local Plan policies D DM1, ENV DM2, QE SP1 and T SP1.

- 3 The development permitted by this planning permission shall only be carried out in accordance with the following noise mitigation measures:

1. New occupiers to sign an Accommodation Agreement which sets out rules and regulations concerning the use of accommodation.
2. Setting of a quiet time between 22:00 hours and 07:00 hours including no loud music and no gathering of residents in groups.
3. No use of the external amenity space between 22:00 hours and 07:00 hours.
4. Access from the main front entrance only.
5. No gathering of persons on the fire escape staircase.
6. Restriction on the times of the mini-bus pick up with the earliest arrival/departure no earlier than 06:30 hours.
7. Mini-bus engine to be turned off during pick-up & drop-off; and
8. The on-site accommodation of a Team Accommodation Manager/Warden.

The mitigation measures shall be adhered to for the lifetime of the approved use and there shall be no deviation from these mitigation measures without approval in writing from the Local Planning Authority.

Reason: In the interests of the amenities of the area and of neighbouring residential properties in accordance with Arun Local Plan policies D DM1 and QE SP1.

- 4 No dogs shall be kept as pets within any part of the approved accommodation or site area.

Reason: The Council has agreed a reduction in the Pagham Harbour contribution on the basis that no occupiers will keep dogs as pets (dogs on/off lead being walked in and around the Pagham Harbour SPA has the potential to disturb wildlife) and in accordance with Arun Local Plan policy ENV DM2.

- 5 No external lighting shall be installed on the site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting approved shall then be installed and shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the area and of neighbouring residential properties in accordance with Arun Local Plan policies D DM1 and QE DM1.

- 6 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 7 INFORMATIVE: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of the Environmental Protection Act 1990 be received. For further information please contact the Environmental Health Department on (01903) 737555.