

PLANNING APPLICATION REPORT

REF NO: BR/186/23/PL

LOCATION: 1 Somerset Gardens
Bognor Regis
PO21 2AA

PROPOSAL: Retention of 7 bed HMO. This application is in CIL Zone 4 and is CIL Liable as new dwellings.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Retrospective planning permission is sought for the retention of a 7-bedroom house in multiple occupation (HMO).
SITE AREA	108.40sqm
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the development. There is an Oak which is protected (TPO/BR/4/82) at the bottom of the garden.
BOUNDARY TREATMENT	Open to the front, timber panel fencing on the shared boundary of the front garden with No.2, overgrown hedgerow on the south-western boundary and timber panel fencing on the southern-western, north-western, and north-eastern boundaries of the rear garden, in combination with a hedgerow on the north-eastern boundary.
SITE CHARACTERISTICS	End terrace of four properties, set forward from the row with gabled roof to the front, hipped roof to the rear and flat roof dormer to the south-western roof plane. There are four terraces of the same character and appearance in the cul-de-sac. Immediately to the rear is a pitched roof timber structure on the boundary with 70 Chichester Road. There is a good sized garden to the rear and parking to the front.
CHARACTER OF LOCALITY	Residential area in walking distance of Bognor Regis Railway Station and town centre. Bognor Regis War Memorial Hospital is to the south-east and allotments are immediately to the north-west.

No relevant planning history.

REPRESENTATIONS

Bognor Regis Town Council: OBJECT for the following, summarised, reasons:

- Would result in an intensification of use that adversely affects the character of the area which would in turn, affect public and neighbouring amenities.
- Generation of excessive parking demands, in this particularly narrow road, thus harming public amenity.
- Requirements for an HMO licence state the minimum requirements for a HMO housing 6 to 8 people as containing 1 wash hand basin in each sleeping room (where practical), plus two bathrooms and two

- separate WCs with wash hand basins. Members were not convinced the requirements were being met.
- Concerns with this being a retrospective application. Members questioned whether all appropriate regulations had been met, when the works to this property were carried out, including proper fire regulation checks.
 - Electrical vehicle charging points should have been provided, and it is not clear if bicycle storage will be installed.

14 letters of objection:

- If the application is granted other houses could be converted as well.
- 7 bedrooms are too many for this style of house; the main concern is parking.
- Somerset Garden are not in the Article 4 Direction that applies in Marine and Hotham wards.
- Building work was completed in March 2023 and the application submitted after the property was populated in August.
- HMO's does not help solve the housing shortage, it exploits it, and the only winners are the landlords.
- By approving this application, a precedent will be set.
- Retrospective permission has negated the residents' the ability to be consulted and any opportunity for amendments to be made prior to work being completed.
- It is difficult to understand how planning permission should be given after works are completed.
- Concerns about exacerbation of traffic congestion, increase of noise and strains on amenities.
- The structural works to No 1 Somerset Gardens need to be investigated.
- Why the residents of Somerset Gardens have not been notified of a change of use to an HMO?
- Adding a student house to a quiet residential road with the prospect of 7 additional vehicles would raise a safety issue.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted and any representations relating to material planning issues are addressed in the 'Conclusions' section of this report. Further observations on specific representations from the Town Council and other third parties are as follows:

- The planning and licensing regulations covering HMOs are separate and this application can only be determined on its planning merits. It is understood from Environmental Health colleagues that the License requirements for a 7 person HMO have been met.
- Issues relating to fire and safety checks are covered under the Building Regulations and are not matters for consideration in this application.
- Conditions relating to electrical vehicle charging and cycle parking provision are recommended.
- WSCC Highways do not anticipate the change of use would result in a highway safety concern or give rise to a parking capacity issue.
- Structural works are a Building Control issue.
- A retrospective application is legitimate and should be treated in the normal way.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ENVIRONMENTAL HEALTH: No objection subject to conditions.

WSCC HIGHWAYS (LHA): Request more information relating to vehicular and cycle parking and has asked that such provision be demonstrated on the site plan.

NATURAL ENGLAND: No objection, subject to appropriate financial contribution and appropriate

assessment in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

COMMENTS ON CONSULTATION RESPONSES:

- The applicant has provided an amended site plan showing parking for cars and cycles and the LHA have been re-consulted. An update will be provided to Committee as to any further response from the LHA.
- The Appropriate Assessment was sent to Natural England on 21 September 2023 for review. Any response received by the date of the Planning Committee will be reported to members, however, it is noted that the applicant has provided a draft Unilateral Undertaking to make a financial contribution towards the Pagham Harbour Special Protection Area (SPA) in accordance with the agreed avoidance/mitigation strategy.

POLICY CONTEXT

Designation applicable to site:

Within the Built-Up Area Boundary;
Pagham Harbour Zone B;
WSCC Mineral Consultation Area;
Food Zone 1;
CIL Zone 4.

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design
ECCSP2	ECC SP2 Energy and climate change mitigation
ENVDM2	ENV DM2 Pagham Harbour
ENVDM5	ENV DM5 Development and biodiversity
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
WDM2	W DM2 Flood Risk
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 policies in the Bognor Regis Neighbourhood Plan.

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 complies with Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

Paragraph 11c of the NPPF (2023) says that development proposals that accord with an up-to-date development plan should be approved without delay.

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, as far as material to the application,
(aza) a post examination draft neighbourhood development plan, as far as material to the application,
(b) any local finance considerations, as far as material to the application, and
(c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

This proposal would make a positive contribution to the District's housing needs. 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 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 and impact on Pagham Harbour. The key policies of the Arun Local Plan are D SP1, D DM1, H SP4, T SP1, ENV DM5, ECC SP2 and ENV DM2 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 a high standard of architectural principles should be demonstrated, and development should have a minimal impact to users and occupiers of nearby properties and land. Policy H SP4 deals with Houses in Multiple Occupation, policy

ENV DM2 points out on an impact of new residential development in Zone B on Pagham Harbour, policy ENV DM5 requires new development to have a minimal impact on existing habitat and policy ECC SP2 expects new development to be energy efficient.

Policy SD SP1 of the Arun Local Plan states the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

The proposal is acceptable in principle given its position in walking distance of shops, facilities, and services. For Housing Delivery Test purposes, the House in Multiple Occupation would be counted as one shared dwelling and, as such, it offers some economic & social benefits to which planning weight must be afforded. This approach is supported by policies SD SP1 and SD SP2 of the Arun Local Plan and the NPPF (2023).

HOUSE IN MULTIPLE OCCUPATION

On 19 January 2023, Arun District Council made an Article 4 Direction to remove permitted development rights for the change of use from a dwelling house (C3) to a house in multiple occupancy (C4). This allows the Council to better manage the creation of HMOs and their impact on the wellbeing of the community in these three wards:- River ward, Littlehampton, and Marine and Hotham wards in Bognor Regis.

These are wards where existing or future high concentrations of HMOs are considered likely to be harmful to the amenity or wellbeing of residents and communities. The property is in Orchard ward and not subject to the Article 4 Direction.

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 meet the detailed criteria below:

- 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, paragraph 12.5.1 of the Local Plan (HMO) states that in providing for the housing needs for Arun, it is important to ensure that mixed and balanced communities are developed avoiding the narrowing of household types towards domination by a particular type, such a shared housing.

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. 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.'

HMO use is materially different to a C3 use. Dwellings tend to operate in a more controlled and holistic manner. In principle, each HMO room functionally operates as its own self-contained residential unit of accommodation. It generates its own waste requirements, own deliveries from couriers, and food deliveries. The HMO would potentially result in an increase of population. The impact of that and compliance with criterion a of ALP Policy H SP4 are discussed below under the 'Character of the Area' section.

Given the position of the property close to the entrance to cul-de-sac, the provision of 4 parking spaces

and the fact that the property serves as accommodation for 7 people, the development would be unlikely to result in the generation of excessive parking demands resulting in demonstrable harm to the amenity of the locality contrary to criterion (b) of Policy H SP4 of the Local Plan.

With regards to the provision of adequate areas of open space (criterion c), the development includes the rear garden of approximately 120sqm to the rear (20m deep by 6m wide). This is sufficient for the needs of the occupiers. The outdoor space is a usable for the occupants as requested by the Arun Design Guide (SPD) and supported by paragraph 130 of the NPPF.

Based on the above, the development complies with the requirements of both criteria b & c of Policy H SP4 of the Local Plan and paragraph 130 of the NPPF.

CHARACTER OF THE AREA

Policy D SP1 of the Arun Local Plan expects planning applications to improve and enhance the existing surrounding environment and encourage health and well-being, and policy D DM1 requires that the Council have regard to certain aspects including character, density and scale.

There is presently only 1 known HMO in a 200m radius from 1 Somerset Gardens - at 74 Chichester Road. A condition will be imposed on the decision to limit the number of occupants to maximum of 7 to avoid an increase in occupancy, which could potentially give rise to greater levels of activity, noise and disturbance and an increase in off-street parking demand. There would only be 1 additional resident above the permitted development allowance for a small HMO under use class C4, as a change of use from a single dwellinghouse (use class C3) to shared dwelling houses occupied by between 3-6 unrelated individuals sharing facilities (C4) does not require express planning permission.

The area is predominantly residential with a takeaway and shops with flats above on the junction of Chichester Road with Hawthorn Road to the northwest and along Town Cross Avenue. Bognor Regis War Memorial Hospital is to the southeast. 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 adversely affect its character to a material degree.

Door and window openings were changed (window frames are in a different position and opening format changed) and the porch was removed before the application was submitted. There is no change in fenestration at the first-floor level apart from the replacement of two windows facing the road. The external alterations to create this HMO have, therefore, been minimal and do not, in themselves, impact on the residential character of the locality.

The proposal would preserve the character of the area and thereby complies with ALP policies D SP1, D DM1 and H SP4(a).

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 site could lawfully operate as a C4 use which allows for the accommodation of up to 6 people in a HMO arrangement without planning permission. The proposed use provides accommodation for up to 7 people. It remains residential and has similar characteristics to residential properties in the locality. The use will not adversely affect the residential amenity of the area in respect of noise/disturbance to a significantly greater degree than a C4 use would.

The only change is a replacement of windows in a different opening format. There are no new overlooking impacts that would occur.

The property benefits from a large rear garden providing more than adequate shared amenity space to serve the needs of occupiers of this HMO.

The proposal complies with ALP policies D DM1, QE SP1 and criterion (c) of Policy H SP4.

HIGHWAYS, TRAFFIC AND PARKING

Policy H SP4(b) makes clear the provision of HMOs 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.

The applicant proposes 4 parking spaces and 4 cycle parking spaces. This has been shown on an amended site/plan (as requested by WSCC Highways), albeit it should be noted that two of these spaces are in a 'tandem' arrangement, which is less workable for an HMO than it would be for a single family dwellinghouse. This, notwithstanding, it is of note that the site lies within a sustainable urban location within easy walking distance of a food store and other local facilities. Furthermore, there are no parking restrictions in this part of Somerset Gardens. The level of vehicle parking proposed is, therefore, acceptable.

Subject to conditions to secure the vehicular & cycle parking and EV charging points, as required by policy, the proposal accords with ALP policies T SP1, T DM1 and with criterion (b) of policy H SP4, the ADC Parking Standards SPD (2020) and the NPPF.

PAGHAM HARBOUR SPECIAL PROTECTION AREA:

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. A contribution of £871 per new unit was agreed by the Council's Cabinet on 10 April 2017. The site lies in the designated Zone B and this application results in a net increase in a slight intensification in occupancy.

Based on the net gain of people (equal to one dwelling), the applicant has agreed to the £871 contribution. There is no conflict with ALP policy ENV DM2 of the Arun Local Plan.

Arun are required to carry out an Appropriate Assessment (AA) to assess the impact of increased recreational disturbance arising from the proposal on the Pagham Harbour Special Protection Area (SPA) & Ramsar Site. An AA has been undertaken and issued to Natural England on 21 September 2023. Their response will be provided to the Committee by way of a report update.

BIODIVERSITY

Policy ENV DM5 of the Local Plan requires schemes 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 submission of further information demonstrating what will be included in the scheme, and what level of net gain will be created, is required. The opportunity to increase biodiversity and mitigation measures will be secured via condition. Subject to this, the proposal complies with ENV DM5.

CLIMATE CHANGE

ALP policy ECC SP2 requires residential development be energy efficient and incorporate decentralised, renewable, and low carbon energy supply systems. There are no decentralised, renewable, and low carbon energy supply systems proposed under this application, however, it can be secured by a condition.

SUMMARY:

The conversion of this property represents an efficient use of urban land without materially compromising the visual amenities or character of the area, highway safety or the amenities of nearby residential occupiers. The proposal represents sustainable development.

The policies most relevant to this application are not considered out of date and so an approval would be in accordance with paragraph 11c of the NPPF and it is recommended that permission is granted subject to conditions and the legal agreement.

If the s106 agreement is not signed within two months of the date of this Committee the application will be refused due to the lack of a contribution to Pagham Harbour.

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 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.

CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT

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

007-IEV-01 RevD2, Site & Block Plan;
007-IEV-02 RevD2, Proposed & Existing Floor Plans;
007-IEV-03 RevD2, Proposed & Existing Elevations.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy D DM1 of the Arun Local Plan.

- 2 The use hereby approved shall be for the benefit of a maximum of seven occupants only.

Reason: To protect the amenities of the locality and adjoining property in accordance with policies D DM1 and H SP4 of the Arun Local Plan.

- 3 The car parking spaces shall be constructed in accordance with the approved site plan (007-IEV-001 Rev.D2). These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To reduce parking pressure within the locality in accordance with policy T DM1 of the Arun Local Plan.

- 4 Within a period of 3 months from the date of this permission, the applicant or developer shall provide the development with electric vehicle charge points in accordance with the council's standards as set out in its Parking Standards SPD. This requires that where a dwelling has a driveway or garage then one of those parking spaces shall be provided with a charging point, with ducting then being provided to all the other spaces, where appropriate, to provide passive provision for these spaces to be upgraded in future. The individual charge points shall be in accordance with the technical requirements set out in Part S, section 6.2 of the Building Regulations 2010 (as amended). The electric vehicle charge points shall thereafter be retained and maintained in good working condition.

Reason: To mitigate against adverse impacts on local air quality and to promote sustainable travel, in accordance with Arun Local Plan policy QE DM3(c), the Arun Parking Standards SPD and the NPPF.

- 5 Covered and secure cycle parking spaces shall be provided within 3 months from the date of this permission in accordance with the submitted plans. The spaces so provided shall be retained in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with Arun Local Plan policy T SP1.

- 6 A scheme for approval by the Local Planning Authority to demonstrate that the development will incorporate energy efficiency measures that reflect standards at the time of submission, together with decentralised, renewable and low carbon energy supply systems shall be submitted within 3 months from the date of this permission. The approved scheme shall thereafter be implemented within 3 months of the details having been approved and any approved renewable energy supply systems shall be permanently retained & maintained in good working order thereafter.

Reason: To ensure that the development is energy efficient and in accordance with policy ECC SP2 of the Arun Local Plan.

- 7 Within a period of 3 months from the date of this permission, details of improvements to secure biodiversity net gain shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be completed on site within 6 months of the date of approval of the details and retained thereafter.

Reason: In accordance with Arun Local Plan policy ENV DM5 and the NPPF.

- 8 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 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.
- 9 INFORMATIVE: This decision has been granted in conjunction with a Section 106 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 the Pagham Harbour Special Protection Area by the proposed intensification of the existing building.
- 10 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

BACKGROUND PAPERS

[The documents relating to this application can be viewed on the Arun District Council website by going to https://www.arun.gov.uk/weekly-lists and entering the application reference or directly by clicking on this link.](https://www.arun.gov.uk/weekly-lists)

BR/186/23/PL - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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