



Appeal Decision

Site visit made on 14 October 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 October 2025

Appeal Ref: APP/C3810/C/24/3336222

1 Somerset Gardens, Bognor Regis, West Sussex PO21 2AA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Gold Mark against an enforcement notice issued by Arun District Council.
 - The notice was issued on 28 November 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the building to a House in Multiple Occupation (HMO), a *sui generis* use.
 - The requirements of the notice are to cease the use of the premises as an HMO and restore it to its former condition before the breach of planning control took place.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is varied by in paragraph 5 after ‘HMO’ deleting ‘*and restore it to its former condition before the breach of planning control took place*’ and inserting ‘*for more than six residents*’. Subject to the variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The enforcement notice clearly attacks the use of the appeal property as a large House in Multiple Occupation (HMO), that being a use which is *sui generis* or ‘in a class of its own.’ However, the notice requires the use as an HMO to cease and restoration of the property to its condition before the breach took place. Change of use from a dwelling in Class C3¹ to use for up to six residents as a Class C4 HMO is permitted by the GPDO² at Article 3(1), Schedule 2, Part 3, Class L. The property is not affected by a Direction made pursuant to Article 4(1) of the GPDO restricting the permitted change from Class C3 to a Class C4 use. An enforcement notice cannot purport to prevent an appellant from doing something they are entitled to do without planning permission, including by relying on lawful use rights, rights of reverter or GPDO rights.
3. Therefore, I shall exercise the power in s176(1) of the Act to vary the notice so that the use as a large HMO is required to cease. This would be sufficient to remedy the breach. No injustice would be caused to the appellant or the Council in varying the notice accordingly.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

² The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

4. My decision takes the revised National Planning Policy Framework, which came into force during the course of the appeal, into account.

Ground (a) appeal

Main Issue

5. The main issue in this appeal is the effect of the development on the living conditions of existing and future occupiers of neighbouring residential property, having regard to noise and disturbance and vehicle parking.

Reasons

Living conditions

6. The property contains a residential building with living accommodation arranged over two floor levels. Originating as a four-bedroom dwelling, the use as a large HMO provides seven-bedroom accommodation. Three bedrooms, a shared kitchen/dining room, a utility room and a WC are on the ground floor, with four further bedrooms, a shared bathroom and a shower room on the first floor. Further indoor shared space is provided in an outbuilding at the rear.
7. The property is located at the end of a terrace in a residential cul-de-sac of just over twenty, mainly similar terraced properties, in an area of suburban housing. As far as I could ascertain, the majority of properties in the vicinity are in single family occupancy. There is a fairly busy suburban road nearby. However, most pedestrian and vehicle movements in the cul-de-sac are limited to those associated with the properties it serves. Therefore, the environs of the property exhibit a largely calm and secluded suburban residential character in which occupiers might reasonably expect to enjoy good levels of peace and quiet in their homes and gardens at most times.
8. Generally, occupiers of HMOs lead separate daily lives, being unlikely to share common connections or relationships or have similar work or study patterns or leisure interests. Most of those occupiers' day-to-day activities, including preparing and cooking food, doing laundry, socialising and relaxing, as well as travelling for the purposes of work, study, leisure or to meet shopping needs, will be undertaken separately, often at different times of day. Occupiers of an HMO are also likely to use shared facilities and outdoor space at various times throughout the day, including later in the evening and early morning on occasion. In addition, occupiers of HMOs can attract their own visitors including friends and family, along with deliveries. This is in contrast to use as a dwelling, where the occupiers often undertake activities together, share travel for purposes of work, study and leisure or travel at similar times, as well as having visitors in common. Therefore, the use as a large HMO is highly likely to have significantly increased activity at the property, as well as the number and frequency of pedestrian and vehicular comings and goings, compared to use as a dwelling.
9. The number of occupiers and the corresponding level of activity at the property, along with the number and frequency of pedestrian and vehicular comings and goings, all associated with the use as a large HMO, has most likely contributed to significant incidences of noise and disturbance being experienced by neighbouring residential occupiers. The likely levels of noise and disturbance arising from the use as a large HMO do not compare favourably with that generally associated with

a dwelling and are more characteristic of an urbanised setting, being at odds with the largely quiet suburban residential context and leading to an appreciable erosion in the sense of peace and tranquillity previously enjoyed by the occupiers of neighbouring residential property. Reference by interested parties to occurrences of noise and disturbance at the property since the use as a large HMO commenced supports my findings in this respect. Similar levels of noise and disturbance are unlikely to arise from a Class C4 HMO use, due to the lower number of occupiers and visitors. Although the appellant expressed a willingness to intervene in the event of incidences of noise and disturbance being drawn to their attention that cannot be relied on, as ownership of the property could change.

10. The front garden area has been covered with gravel, increasing the number of off-road parking spaces from two to five. A secure cycle store is provided. Also, the property is a convenient walking distance from some local shops and facilities as well as from links to frequent public transport services. Even so, most occupiers of the large HMO are likely to require access to a private vehicle to meet day-to-day travel needs. Visitors including family and friends, along with deliveries, are also likely to mostly travel in private vehicles. Moreover, as access and egress can be obstructed by other parked vehicles at times, two of the off-road parking spaces are inconvenient to use. Therefore, in all likelihood the demand for vehicle parking at the property can exceed that available, leading to an increase in vehicles parking at the roadside at times. Use of the property as a dwelling or as a Class C4 HMO on the other hand is unlikely to result in similar levels of parking demand, given the lower number of occupiers and visitors.
11. Most properties in the cul-de-sac have expansive, hard surfaced off-road parking space in their front garden areas. Even so, during my visit there were a number of incidences of parking at the roadside, particularly around the head of the cul-de-sac. Demand for roadside parking is likely to be significantly greater at other times, for example during weekday evenings and at weekends. Dropped kerbs associated with off-road parking areas significantly restricts opportunities for convenient roadside parking on the cul-de-sac. Accordingly, the parking of additional vehicles associated with the use of the property as a large HMO at the roadside, where capacity is in all likelihood limited at times, exacerbates parking congestion in the cul-de-sac and causes inconvenience to neighbouring occupiers.
12. Reference was made to the planning permission granted in recent years for a sixteen-bedroom HMO at an address in the wider area.³ However, the circumstances of that case differ considerably from those in this appeal. The premises concerned was previously a substantial bed and breakfast establishment and it is located on a through road with significant levels of passing traffic, the surroundings also exhibiting comparatively more built-up qualities.
13. Therefore, the development harmfully erodes the living conditions enjoyed by occupiers of neighbouring residential property. This is in conflict with Policy D DM1 of the Arun Local Plan (LP), which amongst other things requires new development to have minimal impact to users and occupiers of nearby property and land, including by avoiding unacceptable noise and disturbance. It is also in conflict with LP Policy H SP4, which amongst other things requires HMOs to not contribute to excessive parking demands. Furthermore, there is conflict with LP Policy QE SP1

³ Council Ref: BR29/22/PL

which requires new development to, amongst other things, ensure there is no significant negative impact on residential amenity.

Other matters

14. The property is in the 400m to 5km (Zone B) Zone of Influence of the Pagham Harbour Special Protection Area (SPA), an internationally important wetland supporting wildfowl species populations. The development increases the number of people living near the SPA and so is likely to have a significant effect on the SPA due to increased recreational disturbance. LP Policy ENV DM2 requires new residential development in Zone B to make a financial contribution towards the provision of accessible new green spaces for recreation, to mitigate current and future pressure from residential development on the SPA. A Planning Obligation to secure the required financial contribution was provided. However, there is no need for me to undertake an appropriate assessment as the development is unacceptable for other reasons.
15. The issuing of an HMO licence for the property for up to seven residents has limited relevance to the planning considerations. HMOs are licenced under separate legislation concerned with matters such as minimum standards for amenities, safety and management practices.
16. I acknowledge that a planning application previously made in respect of the development was refused despite having received a favourable recommendation.⁴ Even so, the Council is not bound by the advice of its officers. Having undertaken my own impartial assessment of the planning merits of the development, I concur with the Council's reasons for issuing the notice.
17. Given my findings set out above, other matters raised by interested parties do not require further consideration.

Conclusion

18. The development harmfully erodes the living conditions of occupiers of neighbouring residential property, in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Stephen Hawkins

INSPECTOR

⁴ Council Ref: BR/186/23/PL