

<b><u>No:</u></b>	<b>BH2019/01591</b>	<b><u>Ward:</u></b>	<b>Hanover And Elm Grove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>27 Baxter Street Brighton BN2 9XP</b>		
<b><u>Proposal:</u></b>	<b>Change of use from a three bedroom single dwelling (C3) to a three bedroom single dwelling or small house in multiple occupation (C3/C4).</b>		
<b><u>Officer:</u></b>	Rebecca Smith, 291075	tel: <b><u>Valid Date:</u></b>	05.06.2019
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	31.07.2019
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	The Planning Practice Ltd 18 Tillstone Street Brighton BN2 0BD		
<b><u>Applicant:</u></b>	J Sinclair-Lee C/O Anthony Foster 18 Tillstone Street Brighton BN2 0BD		

Councillor Steph Powell has requested this application is determined by the Planning Committee.

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

### Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

**Reason:** For the avoidance of doubt and in the interests of proper planning.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	2141-01		30 May 2019
Report/Statement	PLANNING STATEMENT		30 May 2019

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. The ground floor annotated as a kitchen, dining room, living room set out on drawing 2141-01, received 30th May 2019, shall be retained as communal spaces and shall not be used as a bedroom at any time.  
Reason: To ensure a suitable standard of accommodation for occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.
4. The development hereby approved shall only be occupied by a maximum of five persons.

Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.

5. Within 6 months of commencement of the development hereby permitted or prior to occupation, whichever is the sooner, a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have entitlement to a maximum of 1 parking permit at any time. The approved scheme shall be implemented before occupation.

Reason: This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the scheme required to be submitted by Condition 5 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers of the restrictions upon the issuing of resident parking permits.

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The application site is a two storey terraced house with a rear dormer and roof lights to the front roof slope. The property is not located within a conservation area but does fall within the boundary of the Article 4 direction that restricts the permitted development right of a property to change from a dwellinghouse (C3) to a small house in multiple occupation (C4).
- 2.2. The proposal is for the change of use of the dwelling from a 3 bedroom dwelling house (C3) to a 3 bedroom dwelling house (C3) or a 3 bedroom small house in multiple occupation (C4) for use by up to 5 no occupiers.

**3. RELEVANT HISTORY**

- 3.1. Council records show that the dormer extension was completed in January 2008.

**4. REPRESENTATIONS**

- 4.1. Following the initial consultation **two (2)** letters were received, objecting to the proposed development for the following reasons:

- Property is within Article 4 area restricting HMOs
  - Profit motivated development
  - Impact on adjoining houses
  - Further overcrowding of HMOs
  - Negative social effect on Hanover community.
  - Decimation of local housing stock
  - Potential for noise nuisance and disturbance
  - Detrimental effect on property value
- 4.2. No further responses were received following additional consultation that was carried out following an amendment to the application description.
- 4.3. **Councillor Powell** has objected to the scheme and called the item for a committee decision. A copy of the correspondence is attached to this report.

## 5. CONSULTATIONS

- 5.1. **Private Sector Housing:** No objection  
 Concerned about fire separation between the stairs and open plan living/dining area/kitchen.as the stairs are a means of escape in case of fire.
- 5.2. No further comments received following reconsultation.
- 5.3. **Planning Policy:** No Comment
- 5.4. **Sustainable Transport:** No objection
- 5.5. **Car Parking:**  
 Regarding on-street parking permits and car-free housing, Baxter Street is located in Controlled Parking Zone (CPZ) S. The proposed level of car parking (zero spaces) is in line with the maximum standards and is therefore deemed acceptable in this case. Suggest attaching car free condition.
- 5.6. **Cycle Parking:**  
 The Highway Authority does not wish to request cycle parking (in line with parking standards SPD14) as the site appears to be constrained and unlikely to be able to accommodate policy compliant cycle parking spaces.
- 5.7. **Trip Generation:**  
 There is not forecast to be a significant increase in vehicle trip generation as a result of these proposals therefore any impact on carriageways will be minimal and within their capacity so the application is deemed acceptable and developer contributions for carriageway related improvements will not be sought.
- 5.8. **Updated comment following reconsultation:**  
**Car parking:**  
 The existing dwelling is already eligible for parking permits as a C3 dwelling house. Therefore, if it is used as a C3 dwelling in the future it should not be made car free. However due to the fact that it could become a small HMO for

up to 5 persons the Highway Authority requests that the permits are restricted to a maximum of 1 for this property at any one time. This is owing to the site being located within CPZ S which is located within the defined Key Public Transport Corridor.

- 5.9. Trip generation:  
Person trips not significant to raise objection in this location as it is close to public transport and amenity. This is not expected to vary significantly between the proposed dwelling or HMO use.
- 5.10. Cycle parking:  
The site is constrained with no space to provide cycle parking to the front of the site or access to the rear other than through the dwelling. It is therefore considered that the site is constrained and unable to provide compliant cycle parking in line with SPD14. This deemed acceptable by the Highway Authority.

## 6. MATERIAL CONSIDERATIONS

- 6.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density
CP19	Housing mix
CP21	Student housing and Housing in Multiple Occupation

Brighton and Hove Local Plan (retained policies March 2016):

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU10	Noise Nuisance
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development

Supplementary Planning Documents:

SPD14	Parking Standards
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**8. CONSIDERATIONS & ASSESSMENT**

8.1. The main considerations in the determination of this application relate to the principle of the proposed change of use from a dwelling house (C3) to a small House in Multiple Occupation (HMO) (C4). Additionally any wider amenity impacts of the change must be taken into account.

8.2. The application is seeking a flexible use for the dwelling to operate as either a dwelling house as it is now or as a small house in multiple occupation. For this application consideration has only been given to the effects of the proposed HMO use as the residential use as one family dwelling is existing.

**Planning Policy:**

8.3. Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to either class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation and states that:

8.4. *"In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in multiple occupation) use, a mixed C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:*

- *More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use."*

8.5. A mapping exercise has been undertaken which indicates that there are 88 neighbouring properties within a 50m radius of the application property. Seven properties have been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the 50m radius area is therefore 7.95%.

8.6. It is noted that there is a current application for 307 Queens Park Road (BH2019/01314) which is seeking permission as a small HMO. If granted this would result in 8 properties being a HMO within a 50m radius. This would result in the percentage of neighbouring properties in HMO use within the 50m radius area being 9.09%.

- 8.7. Based on the existing percentage of neighbouring properties in HMO use, which is below 10%, the proposal to change use to a house in multiple occupation is consistent with policy CP21 of the Brighton and Hove City Plan Part One.

**Design and Appearance:**

- 8.8. This application is relating to a change of use only with no external alterations or extensions proposed.

Standard of Accommodation

- 8.9. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, Draft City Plan Part 2 proposes to adopt them and indicates a direction of travel on behalf of the LPA. The NDSS provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed. The NDSS identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5sqm, and a double bedroom should measure at least 11.5sqm. The minimum floor space requires a head height of above 1.5m.
- 8.10. The proposed small house in multiple occupation would comprise of a lounge diner (26sqm), kitchen (6sqm), a bathroom and 3 bedrooms the largest of which is ensuite; first floor front bedroom (11.47sqm), first floor rear bedroom (7.66sqm), second floor bedroom (13.47sqm excluding the ensuite). The second floor room measurement only includes floor space where there is headroom of more than 1.5m, owing to the room being in the converted loft.
- 8.11. All the bedrooms have reasonable outlook and access to natural light. Similarly, they are laid out so that they provide usable and convenient space. The first floor front and second floor bedrooms are considered to be large enough for double occupancy. The inclusion of an ensuite in the second floor bedroom means that an appropriate level of bathroom amenities is provided for up to 5 occupants.
- 8.12. Similarly, the communal living/dining/kitchen area provides appropriate space for sitting/eating and cooking. The accommodation provides only a small kitchen room which for 5 individuals is slightly below what might be considered a reasonable provision. The location of the kitchen in this property close to the lounge and dining areas and it is not used to serve any other purpose; access to the outdoor space is provided off the lounge. The kitchen is only required to be a place to prepare and cook meals, there is ample space for dining and relaxation for up to 5 occupants elsewhere. As this is the only slightly sub-standard aspect to the scheme it is considered that this in itself is unlikely to be sufficient reason to refuse the application.
- 8.13. Private Sector Housing have raised a concern about the open-plan nature of the ground floor and implied that alterations would be required to protect a means of escape in the event of a fire. Any works would be internal and likely

to require partitioning the stairs from the rest of the ground floor. This work is not considered, in planning terms, to affect the standard of accommodation or circulation space of the ground floor as there is ample space for 5 occupiers. This work would not adversely affect the HMO and would be able to be carried out without breaching the proposed condition regarding layout as it would not result in a loss of communal space to bedroom.

- 8.14. Given the above, it is considered reasonable and necessary to attached conditions ensuring that the layout as approved is retained and that the accommodation is limited to a maximum of 5 unrelated individuals when in use as a HMO.

**Impact on Amenity:**

- 8.15. Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.16. The change of use from a family dwelling house to small house in multiple occupation will result in a change to the character of the residential property as occupancy by unrelated individuals can result in more intensive activity.
- 8.17. The nature of a HMO can result in more comings and goings as well as an uplift of activity within the property itself. However, as a small HMO, it is considered that the impact would not amount to significant harm of a degree sufficient to warrant refusal of the application.

**Sustainable Transport:**

- 8.18. The site is located close to Queens Park Road and Elm Grove, both of which are served by good public transport links. The proposed development could result in an increase in trip generation. However, any increase would not be of a magnitude which would cause a highway safety risk or warrant securing a financial contribution towards sustainable transport infrastructure in the vicinity of the site.
- 8.19. The site is constrained and it is not possible to provide policy compliant cycle parking.
- 8.20. Regarding car parking the site is currently eligible for parking permits. The site is located within CPZ S which has an uptake of 82.73% at the time of the last parking survey. Uptake of over 80% would normally result in parking permits being restricted for a change of use to HMO. However, as the proposed use would allow flexibility between the existing C3 use and use of the property as a small HMO it is considered, in line with the Highway Authority's advice, that parking permits be restricted to a maximum of 1 resident's permit for the dwelling at any one time. This would not affect visitor permits in any way.

**Other Considerations:**

- 8.21. The proposal, in part, is seeking permission for a 3 bedroom HMO to be occupied by up to 5 unrelated persons as the first floor front and second floor bedrooms are large enough for double occupancy. The maximum occupancy permitted within Class C4 is 6 persons, however the size and layout of the property means that it would not provide an adequate standard of accommodation if the occupancy is increased beyond 5 unrelated persons. Therefore, in order to preserve the amenity of future occupiers a condition restricting occupation to no more than 5 unrelated persons is deemed sufficient.
- 8.22. It is not considered necessary to remove permitted development rights for extensions or outbuildings in this instance. The use of the property could continue as a family dwelling and it would not be reasonable to restrict permitted development rights from this use. In terms of the small HMO use any alteration to the property which seeks to increase the occupancy or number of bedrooms would require planning permission because of the other conditions recommended to be attached to this proposal.

**9. EQUALITIES**  
None identified.