

<b><u>No:</u></b>	<b>BH2020/01870</b>	<b><u>Ward:</u></b>	<b>Moulsecoomb And Bevendean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>136 Ladysmith Road Brighton BN2 4EG</b>		
<b><u>Proposal:</u></b>	<b>Change of use from single dwelling (C3) to three bedroom small house in multiple occupation (C4).</b>		
<b><u>Officer:</u></b>	Rebecca Smith, tel: 291075	<b><u>Valid Date:</u></b>	10.07.2020
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	04.09.2020
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Whaleback The Old Bank 257 New Church Road Hove BN3 4EE		
<b><u>Applicant:</u></b>	Mrs Alison Williamson C/O Whaleback The Old Bank 257 New Church Road Hove BN3 4EE		

## 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	2365/01		10 July 2020

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 number of persons residing at the premises shall not exceed three (3) at any one time and each bedroom shall be for single person occupancy only.

**Reason:** To safeguard the amenities of occupiers and the occupiers of nearby properties and to comply with policy QD27 of the Brighton & Hove Local Plan.

4. The kitchen/dining room and living room shown on drawing no. 2365/01 received on 10th July 2020 shall be retained as communal space at all times and shall not be used as a bedroom.

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

### 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. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The application site is a two-storey terraced property on the southern side of Ladysmith Road. The property is not listed, and it is not within a conservation area.
- 2.2. The application site is located within the Moulsecoomb and Bevendean ward which has been subject to an Article 4 Direction restricting the 'permitted development' right to change from Planning Use Class C3 (dwellinghouse) to C4 (small House in Multiple Occupation) since April 2013. This restriction has recently been extended city wide as of 3rd June 2020.
- 2.3. The application seeks planning permission for the change of use from a C3 dwellinghouse, to C4 small house in multiple occupation (HMO). There are no external alterations included as part of the proposal.

## **3. RELEVANT HISTORY**

- 3.1. **PRE2020/00094** - Change of use from C3 to C4. Application sought LPA advice on whether the proposed change of use was acceptable in terms of the Policy CP21 percentage, whether the room sizes were acceptable and requested a view on the amenity impacts.

## **4. REPRESENTATIONS**

- 4.1. **Ten (10)** letters have been received, objecting to the proposed development for the following reasons:
  - Additional Traffic
  - Overdevelopment
  - Noise
  - Too many HMOs in street already
  - It would exacerbate existing parking problems
  - Property should be retained as a family home
  - Universities are increasing their student accommodation
  - Young professionals would be better suited to purpose-built accommodation.
  - The area has the highest proportion of HMOs in the city
  - 13000 new purpose-built students' rooms are being built nearby
  - Detrimental to property value
  - Likely to lead to an increase in anti-social behaviour

- Residential amenity
- A further HMO would be detrimental to family life
- More HMOs not necessary as universities are building more purpose built.
- No support services to manage HMOs

4.2. **Councillor Yates** has objected to this proposal. A copy is attached to this report.

## 5. CONSULTATIONS

5.1. **Housing Strategy** : No comment received

5.2. **Planning Policy**: No Comment

5.3. **Private Sector Housing**: No objection

If the property is occupied as an HMO it will need to be licensed with the council, under the council's Additional HMO Licensing Scheme, which is in operation until 28/02/2023.

5.4. Currently it appears the living room is not separated from the staircase on the ground floor.

5.5. The ground floor living room will need to be separated from the staircase escape route with a 30-minute fire resisting partition and door.

5.6. **Sustainable Transport**: Verbal No objection

The change of use to small HMO would be unlikely to significantly increase trips or parking demand. There appears to be availability for parking on street. The site is not located within a Controlled Parking Zone. Although it is noted that a CPZ is due to be implemented shortly.

5.7. Regarding cycle parking, the Local Highway Authority would not wish to condition a cycle parking provision in the rear garden owing to the need to take bicycles through living areas. Instead the Local Highway Authority would like to see two spaces at the front of the property.

## 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);
- Shoreham Harbour JAAP (adopted October 2019).

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 Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP9	Sustainable transport
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, the effects of the proposed change of use on neighbours' amenity, the standard of accommodation to be provided for future occupiers, and transport matters.

#### **Principle of Change of Use:**

8.2. Policy CP21 (ii) of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use of dwellings (Planning Use Class C3) to

planning use class C4 (small HMO), a mixed C3/C4 use, or to a larger sui generis HMO (for more than six people). It states that:

- *"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, 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."*

8.3. A mapping exercise has been undertaken which indicates that there are 75 properties within a 50m radius of the application property, six of which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 8%.

8.4. Based on the existing percentage of neighbouring properties in HMO use, which is less than 10%, the change of use to a three-bedroom HMO (C4) would not be in conflict with the aims of policy CP21. The principle of the development is therefore considered to be acceptable.

**Standard of Accommodation:**

8.5. The proposed change of use from a family home, to a three-bedroom, small HMO does not include revisions to the internal layout. The existing two bedrooms on the first floor would remain, as would the ground floor, front bedroom. The only bathroom in the property would remain as existing, situated towards the rear of the property, accessible through the communal areas. The proposed HMO would therefore have three bedrooms: a ground floor bedroom (9.6sqm), a first floor front bedroom (11.7sqm) and a first floor rear bedroom (10sqm).

8.6. Each of the bedrooms would provide enough space for the proposed occupant to move around freely once the room is furnished with the standard furniture (bed, wardrobe, desk, and chair). It is also noted that each bedroom would have full height ceilings and access to natural light, outlook and ventilation from existing window openings.

8.7. Although not yet adopted policy, the Government's Nationally Described Space Standards (NDSS) do provide a useful point of reference for assessing new dwellings. Policy DM1 of the draft City Plan Part Two proposes to adopt the NDSS, indicating a 'direction of travel' of planning policy. It is noted that the bedrooms would exceed the minimum size indicated by the NDSS for a single occupancy bedroom, creating a 3-bedroom, 3 person HMO. The size of bedrooms are therefore considered acceptable, subject to a condition restricting maximum occupation to three persons.

8.8. The communal spaces comprise a kitchen/dining room, and a separate living room. The photographs provided in support of this application (in lieu of a site visit due, to operational restrictions in response to the Co-vid 19 pandemic) show the existing layout furnished with comfortable seating, a dining area and plenty

of kitchen worksurfaces/storage for the proposed three occupiers. Although part of the living room would provide access to the upstairs and the only bathroom, it is not considered that this would negatively affect the amenity of future residents. The kitchen would also provide a through-route to the bathroom and the garden, but it is considered there would be sufficient space for three people to use the kitchen and/or access the bathroom/garden.

- 8.9. Although a separate dining area is not indicated on the plans submitted, it is considered that there would be sufficient space in either the lounge or kitchen to provide a formal seating area without restricting access through the property or circulation within the rooms.
- 8.10. It is noted that the stairs are accessed directly from the living room and that Private Sector Housing officers have raised concerns in relation to fire safety which may require building work in order for the concern to be resolved. Although HMO licensing standards fall under the Housing Act 2004 and not planning legislation, there are occasions where compliance with these standards can negatively affect the standard of accommodation in a HMO in planning terms. In this case, however, although the stairs may need to be separated from the living areas, this separation would not be considered harmful to the standard of accommodation for the three occupiers as it is unlikely that this would significantly reduce the amount of useable communal space or interfere with the useable floor area of bedrooms. It is unlikely that the proposed layout condition accompanying this recommendation would be breached by completing future works relating to fire safety concerning the stairs as the rooms function would remain as proposed.
- 8.11. Overall the proposed communal areas are considered suitable for the proposed occupation by three persons.
- 8.12. Finally, at the rear of the property is a rear garden which would be available for the use of the occupiers. The garden is characteristic of the area and would meet the objectives of policy HO5 which seeks to provide private amenity space in residential developments.

**Impact on Amenity:**

- 8.13. 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.
- 8.14. The proposed use of the property as a small HMO with a maximum of three occupiers would not be dissimilar to that of a family dwelling. The pattern of movement within the dwelling and to and from the dwelling may be different owing to the individual lives being led rather than a family unit, but this would not be of a magnitude to cause substantial harm.
- 8.15. The application site is not in an area which currently has more than 10% of properties within 50m radius being in HMO use. While any additional HMOs may have the potential to increase the cumulative impact and harm to amenity with

which they are often associated, in this instance the existing numbers of HMOs in the area is not enough to warrant refusal of the application on the grounds of potential amenity impact.

**Sustainable Transport:**

- 8.16. The change of use from C3 dwelling house to C4 small HMO is unlikely to have a significant effect on the local transport network. It would not be appropriate to restrict the development on this basis.
- 8.17. The application submission states that cycle parking would be facilitated in the rear garden. For a development of this size 2no cycle parking spaces would be required. In their comments, Sustainable Transport have requested that cycle parking be provided in the front garden and have advised that they would not support cycle parking in the rear garden as it would be awkward to access via the property.
- 8.18. Although it has been suggested that cycle parking should be provided in the front garden, this would negatively impact on the streetscene as the front garden is relatively small. To provide cycle parking which is policy compliant and easy to access, it would likely result in an incongruous structure which would detract from the appearance of the area and may overshadow the ground floor bedroom. Therefore, on this occasion, the site is considered too constrained to provide built, on-site cycle parking.
- 8.19. Public comments and councillor comments on the application have raised concerns about parking. The application does not propose any off-street parking. In their comments, Transport Officers have not raised specific concerns in relation to on-street parking. It is noted that a Controlled Parking Zone (CPZ) is to be implemented soon. However, the CPZ is not operational at the time of writing so it would be inappropriate to place a restriction on this decision in relation to parking. Furthermore, such a restriction is usually required on the basis of data relating to parking permit uptake, which will not be available for some time after the CPZ is implemented.
- 8.20. On this basis, the proposal is considered acceptable in terms of its impact on the highway network.

**Other Considerations:**

- 8.21. It is noted that within the objection from Councillor Yates it has been requested that 'permitted development' rights are removed to ensure that subsequent enlargement or alteration can be fully considered. However, conditions are proposed which would restrict the number of occupiers, and prevent further bedrooms from being created and higher occupation levels. It is therefore not considered justifiable or necessary to restrict permitted development rights for future enlargements to the property.

**9. EQUALITIES**  
None identified

