

<b><u>No:</u></b>	<b>BH2022/01630</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>55 Auckland Drive Brighton BN2 4JD</b>		
<b><u>Proposal:</u></b>	<b>Change of use from dwellinghouse (C3) to small house in multiple occupation (C4) including the erection of a single-storey rear extension, and cycle and bin store to front.</b>		
<b><u>Officer:</u></b>	Charlotte Bush, tel: 292193	<b><u>Valid Date:</u></b>	16.05.2022
<b><u>Con Area:</u></b>	None.	<b><u>Expiry Date:</u></b>	11.07.2022
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Rivers Birtwell C/o Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		

This planning application was deferred by the Planning Committee on 10 August 2022 as Members required further detail on how a decision can be made without an assessment being made under CPP2, HMO Policy (DM7).

In response, further consideration has been set out in the 'Principle of Development' section below.

This application was deferred from Planning Committee in September as the meeting could not go ahead.

## 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>
Block Plan	02		16 May 2022
Proposed Drawing	02		16 May 2022
Location Plan	01		16 May 2022

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 development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplans, drawing no 02 received on the 16/05/2022 and shall be retained as such thereafter. The layout shall be retained as communal space at all times and shall not be used as bedrooms.  
**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 permitted shall not be occupied until the cycle parking facilities shown on the approved plans has been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan 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. SITE LOCATION

- 2.1. The application relates to a two-storey, two-bedroom, semi-detached dwelling located within a residential area, but not listed or in a Conservation Area. The house has an existing flat-roofed side projection which is a common feature of the houses built in this area. The house is finished in painted white render and brickwork, and sits back from the road behind a small garden. The building is below the road level, with the first floor windows just above the level of the road.
- 2.2. There is an Article Four Direction in place restricting the conversion of single dwellinghouses to houses in multiple occupation (HMOs)(planning use class C4, or sui generis (outside of a use class)).

## 3. RELEVANT HISTORY

None

## 4. APPLICATION DESCRIPTION

- 4.1. This application seeks permission to convert the existing C3 residential dwelling house to a small HMO in C4 use class providing six bedrooms.
- 4.2. Permission is also sought for the erection of a full-width single storey extension over an existing patio to the rear of the dwelling, with a maximum height of 3.1m

and a depth of 3m. It is also proposed to erect a small cycle and bin store to the front of the dwelling.

## 5. REPRESENTATIONS

5.1. **Twelve (12)** letters have been received from objecting to the proposed development for the following reasons:

- Additional traffic
- Noise and antisocial behaviour
- Impact on parking
- Overdevelopment of a 2-bedroom family home to a 6-bedroom HMO
- Detrimental effect on property value
- Lack of family dwellings
- There is purpose-built accommodation nearby
- Too close to the boundary
- Overshadowing
- Untidy front gardens
- Overflowing bins
- Increased vermin
- No consideration of people's health problems or well-being
- The development has already commenced.

## 6. CONSULTATIONS

6.1. **Planning Policy:** No Comment  
Policy comments not required

6.2. **Private Sector Housing:** Comment  
Should the above application be granted then the applicant will need to apply for HMO Licence via the council' website.

6.3. **Transport:** No objections  
The proposed change of use from C3 residential use to C4 HMO residential use is expected to result in an increase in trip generation, however the level of trips is not expected to result in a negative impact on the local highway network. The applicant proposes four long-stay cycle parking spaces, which exceeds the long-stay cycle parking requirement set out in the SPD 14 and is welcomed by the LHA. A cycle parking implementation scheme condition should be applied. Access to the proposed cycle parking store is proposed via external steps. The applicant should provide a wheeling cycle ramp against the stairs to facilitate cycle access and promote active and sustainable travel.

## 7. MATERIAL CONSIDERATIONS

7.1. 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

- 7.2. 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).
- 7.3. 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.

## 8. **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
CP19	Housing mix
CP21	Student housing and Housing in Multiple Occupation

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

TR7	Safe Development
TR14	Cycle access and parking
SU10	Noise Nuisance
QD14	Extensions and alterations
QD27	Protection of amenity

#### Brighton & Hove City Plan Part Two

Policies in this Plan 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. Some policies have gained further weight following the CPP2 examination hearings and publication of the Post Hearing Action points by the Inspector (INSP09) and Main Modifications for consultation March 17th (BHCC44 Schedule of Main Modifications).

DM1	Housing Quality, Choice and Mix
DM7	Houses in Multiple Occupation (HMOs)
DM20	Protection of Amenity
DM33	Safe, Sustainable and Active Travel
DM36	Parking and Servicing

Supplementary Planning Documents:

- SPD12 Design Guide for Extensions and Alterations  
SPD14 Parking Standards

**9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of the change of use, design and appearance, the standard of accommodation which the use would provide, impact upon neighbouring amenity and transport issues.

**Principle of Development:**

- 9.2. The application is for change of use from a C3 dwelling, to a use which would allow occupation of the property as a six-bedroom C4 HMO.
- 9.3. 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:  
*“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.”*
- 9.4. A mapping exercise has taken place which indicates that there are 25 neighbouring residential properties within a 50m radius of the application property. Two (2) neighbouring properties have been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is thus 8%.
- 9.5. Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a C4 HMO would be in accordance with policy CP21.

Update in Response to Deferral

- 9.6. As noted by members at the 10 August Planning Committee meeting, Policy DM7 of City Plan Part 2, which provides additional criteria in relation to HMOs, must also be given significant weight.
- 9.7. The policy states the following:  
*“1. Planning permission will be granted for the conversion of sui generis Houses in Multiple Occupation to self-contained family homes (use class C3).*

2. *Applications for new build HMOs, and applications for the change of use to a C4 use, a mixed C3/C4 use or to a sui generis HMO use, will be permitted where the proposal complies with City Plan Part One Policy CP21 and all of the following criteria are met:*
- a) *fewer than 20% of dwellings in the wider neighbourhood area are already in use as HMOs;*
  - b) *the proposal does not result in a non-HMO dwelling being sandwiched between two existing HMOs in a continuous frontage;*
  - c) *the proposal does not lead to a continuous frontage of three or more HMOs;*
  - d) *the internal and private outdoor space standards provided comply with Policy DM1 Housing Quality, Choice and Mix;*
  - e) *communal living space and cooking and bathroom facilities are provided appropriate in size to the expected number of occupants.”*

9.8. Criterion 1 is not relevant to this application.

9.9. At the time of the previous Planning Committee, compliance with criterion 2(a) could not be measured because the required mapping system had not been set up and notice of the change had not been publicised. For these reasons, it was not being applied to the relevant planning applications. However, the mapping system is now in place and will be used to apply the criterion to those applications validated after 26 August 2022. Given the mapping was not in place and had not been publicised before this date, it is not considered reasonable to apply it to applications such as the present one.

9.10. In the meantime, applications such as the present scheme must be considered against the other criteria set out in Policy DM21 and CP21, as set out above and below

9.11. Criterion 2(b) is met in that a dwelling would not be ‘sandwiched’ as a result of the HMO use, and there would not be a continuous frontage of HMOs, so it accords with criterion 2(c). As set out below, the communal facilities are considered to be acceptable, in compliance with criterion 2(d).

**Design and Appearance:**

9.12. Policy CP12 of the Brighton & Hove City Plan Part One seeks to ensure that all new development raises the standard of architecture and design in the City. In tandem with this, Policy CP14 of the City Plan seeks to encourage a higher density of development than those typically found in the locality provided developments will, amongst other things, respect, reinforce or repair the character of a neighbourhood and contribute positively to its sense of place.

9.13. The proposed single storey rear extension would have a maximum height of 3.1m and a depth of 3m and would expand across the full width of the main building. It would be finished in brickwork and painted render to match the existing. The doors and windows would align with the fenestration above. It would be subservient in form relative to the dwelling, and in keeping with it in

terms of appearance. It would not be visible from the public realm so would have no impact on the streetscene or character of the area.

- 9.14. The cycle/bin store would be located on an area that sits below the road level, so would have limited, if any impact on the streetscene, particularly given its small scale.
- 9.15. On this basis, it is considered that the scheme is appropriate in terms of scale, appearance and materials and would accord with policies Policy CP12 and CP14 of the Brighton & Hove City Plan Part One.

**Standard of Accommodation:**

- 9.16. HMO licensing seeks to secure minimum standards of accommodation fit for human habitation such as fire safety standards and access to basic facilities such as a kitchen, bathroom and toilet. The Local Planning Authority's development plan has a wider remit to secure a good quality of accommodation which would ensure a good standard of amenity for future occupiers. It is therefore clear that the remit of the Planning regime allows the Local Planning Authority to consider a wider range of issues and to seek to secure a higher standard of accommodation than the bare minimum fit for human habitation secured by the licencing requirements.
- 9.17. 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. Policy DM1 of the submission City Plan Part 2 proposes to incorporate the standards into development plan policy, and can now be given significant weight.
- 9.18. 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. Rooms are also assessed for their ability to provide suitable room to circulate within them by future occupants.
- 9.19. The proposed ground floor layout would provide an open plan lounge/kitchen/dinner, two single bedrooms, shower room and W/C, storage room and separate W/C. The first floor accommodation would comprise four single bedrooms and a shower room.
- 9.20. All of the bedrooms would meet the minimum space standards for single occupancy and have access to natural light and ventilation, outlook and circulation space.
- 9.21. The lounge/kitchen/diner would provide 28sqm of communal space which exceeds the 4sqm per person required by policy DM7 of the emerging City Plan Part 2 which is given significant weight.
- 9.22. The proposed layout would be secured by condition which would ensure that any loss of communal space would be resisted as it would fail to provide a good standards of living accommodation for future occupants.

- 9.23. Overall, the accommodation proposed is in accordance with policy QD27 of the Brighton and Hove Local Plan and emerging policies DM1 and DM7 of CPP2 (of which can be given significant weight).

**Impact on Amenity:**

- 9.24. Policy QD27 of the Brighton & Hove Local Plan and emerging policy DM21 of City Plan Part 2 (that can be given significant weight) state 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.
- 9.25. The properties most likely to be affected by the proposed development are 53 Auckland Drive and 57 Auckland Drive.
- 9.26. While the change of use from a dwelling to HMO may cause an increase in disturbance, it would not be of such a magnitude to cause demonstrable harm, particularly noting that six adult members of a family could live in the dwelling under a C3 use. Further, as already noted, Policy CP21 of the Brighton and Hove City Plan Part One supports the change of use to C4 House in Multiple Occupation, provided that there is not an excessive proportion of neighbouring dwellings in HMO use (over 10% within a 50 metre radius). The application accords with policy CP21 in this regard, and given the limited number of HMOs in the vicinity of the site, the cumulative impact is also not considered to be of concern.
- 9.27. The proposed extension would be situated to the west of the adjoining property No. 57 so would have limited impact in terms of overshadowing or loss of light. Both properties sit on wide plots with good sized rear gardens so the sense of enclosure experienced by the neighbours will be limited, and there will be no additional overlooking.
- 9.28. The proposed extension will be situated over 4.5m from the boundary to No. 53 which is considered sufficient to mitigate any harm.
- 9.29. Overall, while there may be some impacts over and above those which exist at the site, the impact on amenity of neighbouring occupiers is not considered to be so detrimentally significant as to warrant refusal of the application.

**Sustainable Transport:**

- 9.30. The proposed scheme is unlikely to generate the additional number of trips or on street parking that would warrant the refusal of the application. Cycle storage has been proposed for the garden at the front of the dwelling which is considered acceptable, and would be secured by condition.

**10. CLIMATE CHANGE/BIODIVERSITY**



- 10.1. The proposal would maximise the use of the property as a C4 HMO, making a more efficient use of the site in a sustainable location. Cycle storage facilities will be provided on site, reducing the need for combustion engine cars.

**11. EQUALITIES**  
None identified

