

<u>No:</u>	BH2023/02174	<u>Ward:</u>	Woodingdean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	18 Rosebery Avenue Brighton BN2 6DE		
<u>Proposal:</u>	Change of use from single dwellinghouse (C3) to small house in multiple occupation (C4) and provision of cycle storage.		
<u>Officer:</u>	Rebecca Smith, tel: 291075	<u>Valid Date:</u>	02.08.2023
<u>Con Area:</u>		<u>Expiry Date:</u>	27.09.2023
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Mrs May Barron C/o Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		

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.

Plan Type	Reference	Version	Date Received
Location and block plan	2800/01		2 August 2023
Proposed Drawing	2800/01		2 August 2023
Report/Statement	Planning Statement		2 August 2023

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 HMO (C4) hereby approved shall only be occupied by a maximum of five (5) persons.

Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with policies DM7 and DM20 of the emerging Brighton and Hove City Plan Part Two.

4. The HMO use hereby approved shall only be implemented in strict accordance with the proposed layout detailed on the proposed floor plan ref. 2800/01 C received on 2nd August 2023 and shall be retained as such thereafter. The

layout of the kitchen and living spaces shall be retained as communal space at all times and shall not be used as bedrooms. The double occupancy bedroom shall be the largest bedroom (first floor front bedroom).

Reason: To ensure a suitable standard of accommodation for occupiers and to comply with Policies DM7 and DM20 of the City Plan Part Two.

5. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have 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 DM33 of Brighton & Hove City Plan Part Two, and SPD14: Parking Standards.

6. The development hereby permitted shall not be used/occupied until the new crossover and access has been constructed.

Reason: In the interests of highway safety and to comply with policies DM33 of Brighton & Hove City Plan Part Two, and CP9 of the Brighton & Hove City Plan Part One.

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. To be in line with Policy DM33 of the City Plan cycle parking must be secure, convenient, well lit, well signed and wherever practical, sheltered. The Local Highway Authority's preference is for a purpose-built secure cycle store (e.g., Tri-metal). Alternatively stores made from other materials such as wood must be covered and include a concrete base with Sheffield type stands to ensure the main frame of the bicycle can be securely stored. All must be spaced in line with the guidance contained within the Manual for Streets section 8.2.22.
3. The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required by law to be constructed under licence from the Highway Authority. The applicant must contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 290729) prior to any works commencing on the public highway.

2. SITE LOCATION

- 2.1. The application site relates to a detached bungalow with side dormers on the eastern side of Rosebery Avenue. The application site is not listed, and it does not lie within a conservation area.
- 2.2. The site lies within the Woodingdean ward which has been subject to an Article 4 direction to restrict permitted development rights for changes of use from C3 (dwellinghouse) to C4 (small House in Multiple Occupation) since June 2020. Express planning permission is therefore required for such changes of use.

3. APPLICATION DESCRIPTION

- 3.1. This application seeks planning permission for change of use from a dwelling house (C3) to a small, four-bed house in multiple occupation (C4).

4. RELEVANT HISTORY

- 4.1. **BH2020/01930** - Change of use from dwelling house (C3) to four bedroom small House in Multiple Occupation (C4). Withdrawn
- 4.2. **BH2017/03521** - Certificate of lawfulness for proposed rear extension, erection of side porch and alterations to fenestration. Split Decision

5. REPRESENTATIONS

- 5.1. **Eight (8) representations** have been received objecting to the proposed development for the following reasons,
 - Increase in noise and disturbance from HMO residents,
 - Overdevelopment,
 - Previous use as a holiday let was a poor experience for residents,
 - Increased traffic and parking pressures,
 - Proposed bicycle store is built against a low boundary wall,
 - Does not maintain a balanced community,
 - Property is poorly maintained and managed by owner,
 - Loss of privacy to neighbouring properties,
 - Number 20 would be sandwiched between HMOs,
 - Potential for health and safety issues, including fire risk,
 - Loss of family dwellinghouse,
 - Poor design of the internal layout as the bathroom is accessed off the kitchen, poor communal spaces
 - Application prioritises profit.

6. CONSULTATIONS

Southern Water comment

6.1. A sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.

6.2. **Sustainable Transport - Verbal comment:** No objection

- The proposed changes are likely to increase the number of trips to the location however, these are unlikely to generate reason for objection.
- Parking Standards SPD14 states a maximum of 0.25 car parking space per bedroom for the Houses of multiple occupiers. The applicant is proposing the one car parking space and this is accordance with the maximum requirements. However, the plans do not indicate a vehicle crossover for the proposed car parking space. A new/extend vehicle crossover is necessary, and a condition should be attached. Please note that this is a separate process and permission is not guaranteed. The applicant is advised to contact council's vehicle crossover team.
- The applicant is proposing 4 cycle space in the secured storage, and this is considered acceptable. Details of cycling storage are required via condition.

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 City Plan Part Two (adopted October 2022);
- 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).

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP9	Sustainable transport
CP21	Student housing and Housing in Multiple Occupation

Brighton & Hove City Plan Part Two (CPP2)

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:

SPD14 Parking Standards

9. CONSIDERATIONS & ASSESSMENT

9.1. The main considerations in the determination of this application relate to whether the change of use is supported in principle, the standard of accommodation, the impacts of the development on neighbour amenity and transport matters.

Principle of Proposed Change of Use:

9.2. Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to planning use class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation (HMO) 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, 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."*

9.3. A mapping exercise has been undertaken which indicates that there are 33 properties within a 50m radius of the application property, one of which has been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 3.03%.

9.4. Based on the existing percentage of neighbouring properties in HMO use, which is less than 10%, the change of use to a four-bedroom HMO (C4 use) would not conflict with the aims of policy CP21.

9.5. Policy DM7 of CPP2 includes additional criteria to those set out in Policy CP21, and states the following:

"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."*

9.6. Criterion a) has been assessed and the percentage of dwellings in the wider neighbourhood area has been calculated at 0.4% and therefore criterion a has been met. Criterion b) The area has been assessed and it is confirmed that the proposal would not 'sandwich' a non-HMO between two existing HMOs; and would not lead to a continuous frontage of three or more HMOs so accords with criterion (c). Considerations regarding amenity space and communal living (criteria d) and e)) are set out below.

9.7. On this basis, the scheme is considered to accord with Policy DM7 of CPP2 and CP21 of the CPP1.

Standard of Accommodation:

9.8. The proposed standard of accommodation is being considered against Policy DM1 of CPP2 which incorporates the minimum space standards within the Nationally Described Space Standards (NDSS) into the development plan. The requirement to meet these standards is further emphasised within d) and e) of Policy DM7 of CPP2.

9.9. The proposal would result in a property in HMO use with four bedrooms. The ground floor would have two bedrooms (7.8sqm and 12.7sqm) to the front of the property, whilst there would be a bathroom and kitchen/dining space (16sqm) to the rear.

9.10. At first floor there would be two further bedrooms, to the rear a single bedroom (9.9sqm) and the largest bedroom (20.5sqm). There would also be a snug/study (6.3sqm) which would serve as additional communal space for use by future occupiers. The addition of a snug/study at first floor takes the provision of communal spaces within the dwelling to 22.3sqm. It is noted that the large first floor bedroom would be more than capable of comfortably accommodating two persons.

9.11. It is considered that the bedrooms are all large enough to comfortably accommodate standard furniture (bed, desk, chair and storage furniture) with ample circulation space for an occupant to move around. Each of the bedrooms and communal spaces would have windows which would provide outlook, natural light and ventilation to future occupiers. The communal spaces are similarly served in relation to outlook, natural light and ventilation.

9.12. It is noted that whilst the applicant has provided a floor plan with an indicative layout of six persons it is acknowledged that the total communal space within the property is less than the minimum of 4sqm per person set out in the supporting text of policy DM7 of City Plan Part Two. The shortfall would be 1.7sqm. It is not considered that the communal space, which is split over two rooms is considered sufficient in respect of size and usability to acceptably accommodate six persons so a condition would be imposed restricting

occupation to five people. The largest (first floor front) bedroom would be identified as the 'double occupancy' room.

- 9.13. In addition, a condition is recommended to secure the proposed layout with the communal area safeguarded from future conversions to bedrooms without further approval from the LPA.
- 9.14. To the rear of the property there is a garden, and it is considered suitable in size for the level of occupation, in accordance with Policy DM1.
- 9.15. Overall, it is considered that the proposed layout of the property as a small HMO (five persons) would provide suitable standard of accommodation for the number of occupants proposed and is therefore in accordance with Policies DM1 and DM7 of the City Plan Part Two.

Impact on Amenity:

- 9.16. Policy DM20 of City Plan Part Two 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.
- 9.17. The proposed change of use from a dwellinghouse to small HMO could potentially create more comings and goings from the property and in a different pattern to the existing dwellinghouse use, though it is equally noted it could host a large, intergenerational family. However, it is not considered that any additional comings and goings from a small HMO use would amount to a level of noise and disturbance that would warrant refusal of the application.
- 9.18. Accordingly, the development is considered acceptable in respect of any impacts on neighbouring amenity. The proposal complies with policy DM20 of the City Plan Part Two.

Sustainable Transport:

- 9.19. The change of use is unlikely to significantly increase trips or parking to/from the site. It is noted that there is off-street parking possible in front of the house. Cycle parking is proposed in the rear garden for four bicycles and this exceeds the minimum required for five occupiers of the proposed HMO. A condition is attached to this recommendation to secure implementation of the cycle parking as shown on the plans.
- 9.20. The Highway Authority have noted that the application site currently has a parking space to the front of the dwelling. This is not supported by a vehicle crossover and therefore it has been requested that a crossover be constructed prior to first occupation of the development is approved. The application of the condition is considered acceptable and would be supported in planning terms.
- 9.21. Accordingly, the proposal is considered to comply with policies CP9 of the City Plan Part One and policies DM33 and DM36 of the City Plan Part Two.

Other Considerations:

- 9.22. The public comments on the application have cited concerns about poor management of the property previously; it is important to note that planning permission is granted to a building or land and is not being granted to the applicant as an individual. There are other mechanisms which can deal with management and/or safety issues.
- 9.23. In terms of safety, all rented properties are required to meet the Housing Health and Safety Rating System (HHSRS), this covers basic provision of amenities and safety standards.
- 9.24. It is noted that the comments of Southern Water appear to refer to physical works at the site, however this application seeks change of use of the property only and no external works are proposed.

10. EQUALITIES
None identified