

<u>No:</u>	BH2023/03155	<u>Ward:</u>	Moulsecoomb & Bevendean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	30 Bodiam Avenue Brighton BN2 4LQ		
<u>Proposal:</u>	Change of use of existing dwellinghouse (C3) to form a six-bedroom Small House in Multiple Occupation (C4), revised fenestration and the provision of bin store/cycle storage.		
<u>Officer:</u>	Alice Johnson, Tel: 296568	<u>Valid Date:</u>	13.12.2023
<u>Con Area:</u>		<u>Expiry Date:</u>	07.02.2024
<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>	Rivers Birtwell C/O Lewis and Co Planning SE Ltd 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 Plan	01		28 November 2023
Proposed Drawing	02	A	23 January 2024

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 proposed windows are to be UPVC white.

Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies DM21 of Brighton & Hove City Plan Part 2 and CP12 of the Brighton & Hove City Plan Part One.

4. The C4 HMO use hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplans and shall be retained as such thereafter. The kitchen/living/dining room shall be retained as communal space at all times and shall not be used as a bedroom(s).

Reason: To ensure a suitable standard of accommodation for occupiers and to comply with Policy DM1 of the Brighton & Hove 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 2, and SPD14: Parking Standards.

6. The use hereby permitted shall not come into use until the soundproofing measures (internal and external) shown on the approved drawings have been implemented. The soundproofing shall be retained thereafter.

Reason: To safeguard the amenities of occupiers of no. 32 Bodiam Avenue and to comply with policy QD27 of the Brighton and Hove Local Plan.

7. Notwithstanding the details submitted, the development hereby permitted shall not be occupied until a details of the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in full prior to occupation.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies DM18 and DM21 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals 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

- 2.1. This application relates to a two storey semi-detached building, located on the eastern side of Bodiam Avenue in Bevendean. The property has a front and rear garden, and has a single storey, flat-roofed element attached to the side (southern) elevation.
- 2.2. The property is currently in use as a dwellinghouse.
- 2.3. There is an Article 4 Direction in place restricting the conversion of single dwellinghouses (C3) to small houses in multiple occupation (C4) without express planning permission.

3. RELEVANT HISTORY

- 3.1. **PRE2023/00185** Change of use from (C3) dwelling to (C4) small HMO. Supportable subject to acceptability of the internal layout
- 3.2. **BH2018/02627** Change of use from residential dwelling (C3) to small house in multiple occupation (C4) with cycle stands to front elevation, revised fenestration and other associated works. Withdrawn

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought to change the use of the existing dwellinghouse (planning use class C3) to form a six bedroom small House in Multiple Occupation (HMO)(planning use class C4), along with revised fenestration and the provision of bin store/cycle storage.
- 4.2. Amendments have been made to the plans showing the proposed windows to be altered and clarifying the material.

5. REPRESENTATIONS

- 5.1. **Twenty three (23)** representations have been received, objecting to the proposal on the following grounds:
- Additional traffic and lack of parking.
 - Overdevelopment and too close to boundary.
 - Previous application refused due to objections.
 - Bevendean is oversaturated with HMOs, family homes are needed;
 - Lack of need - universities are building purpose built student accommodation.
 - Impact on community and character of area;
 - Noise.
 - Poor design including additional windows.
 - HMO present at no.63.
 - The property was being considered from a buyback scheme.
 - Impact on local school, healthcare provision and businesses.
 - Anti-social behaviour and lack of maintenance of property if in HMO use
 - Concerns about the decision making process/ conflict of interest
 - The neighbourhood concentration map is incorrect.
 - Poor standard of accommodation and lack of double bedrooms.
 - Building works will be disruptive.
 - Concerns about energy cost efficiency.
 - Detrimental impact on property value.
- 5.2. Councillor's comments: a copy of the representation from **Councillor Taylor** is attached.

- 5.3. Full details of consultation responses can be found on the planning register online.

6. CONSULTATIONS

6.1. **Transport** (Verbal) No objection

The applicant proposes 4 cycle parking spaces at the front garden. This is in accordance with the minimum required by SPD14. It is noted that the access to the cycle storage is stepped and this is not considered ideal however, due to the level of this property/location we would wish not to object.

- The proposed change of use from a dwelling house to a small HMO are likely to increase the number of trips to the location however, these are unlikely to be significant enough to object.

6.2. **Policy Comment**

Policy comments not required.

6.3. **Private Sector Housing Comment**

Should the application be approved then the applicant will have to apply for a HMO Licence. This can be done on-line via the council's website.

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
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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, design and appearance and the impacts of the development on neighbour amenity and transport matters.

Principle of Development:

- 9.2. Concerns have been raised in the representations received that the proposed development would lead to the loss of a family home to the detriment of the character of the area. Policy CP21 of City Plan Part 1 (CPP1) and DM7 of City Plan Part 2 (CPP2) limit the proportion of HMOs in an area, with the stated intention of ensuring health and inclusive communities are maintained, preventing a significant change in character for an area.
- 9.3. It is not reasonable to resist the change of use from single C3 dwellinghouses to HMOs in principle, with such schemes to be considered on a case-by-case basis, including against these key policies. Although a certain type of housing is lost, HMO-based accommodation also contributes to the housing stock of the city for those unable to afford their own dwelling.
- 9.4. Policy CP21 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."*
- 9.5. A mapping exercise has been undertaken which indicates that there are 17 properties within a 50m radius of the application property, none of which has been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 0%.

- 9.6. 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.
- 9.7. 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."*
- 9.8. In relation to criterion a), the percentage of dwellings in the wider neighbourhood area has been calculated at 5.6%. The neighbourhood area includes HMOs on Walmer Crescent, Bamford Close, Bodiam Close and Bodiam Avenue. Unlicensed HMOs or unlawful HMOs are not included in these calculations, including some identified in representations. The proposal therefore meets criterion a).
- 9.9. The area has been assessed and it is confirmed that the proposal would not 'sandwich' a non-HMO between two existing HMOs (criterion b)), and would not lead to a continuous frontage of three or more HMOs (criterion c)). Considerations regarding amenity space and communal living (criteria d) and e)) are set out below.
- 9.10. On this basis, the scheme is considered to accord with Policy DM7 of CPP2 and CP21 of the CPP1.

Design and Appearance

- 9.11. The applicant has confirmed that all windows are to be replaced with white uPVC which would be secured by condition. It is acknowledged that the original plans say the windows are to match the existing, however there is a mix of material fenestration on the property, including aluminium and uPVC. Furthermore, the replacement of the existing white aluminium windows with white uPVC would be 'permitted development' so would not require a planning application. The proposed materials would be in keeping with the uPVC in the streetscene and would ensure all windows on the property match. The windows do not presently match those on the adjoining semi-detached dwelling so the change is not considered to have any impact.

- 9.12. A bike store is proposed to the front elevation, with the bins stored behind it. The cycle store would have a mono-pitched roof, timber shiplap cladding and a felt roof. The store is low level in nature compared to the host dwelling, and with a maximum height of 1.6m, it would not appear dominant or be detrimental to the streetscene given this limited size. The Transport Officer has confirmed the acceptability of the store. A condition securing the implementation of the store prior to occupation, has been recommended.
- 9.13. It is acknowledged that the cycle store would be on sloped land. Some land level change may be required, this would is not considered to be significant.
- 9.14. Further details are required to confirm the acceptability for the storage of refuse and recycling, a condition to secure this has been recommended.

Standard of Accommodation:

- 9.15. 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.
- 9.16. 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
- 9.17. The proposal would result in a property in HMO use with six bedrooms and to be occupied by a maximum of six persons. As six is the maximum number of occupiers a C4 HMO can accommodate without requiring a planning application to change the use, no condition is required in this case to restrict the number of occupiers.
- 9.18. The ground floor would have two bedrooms, each for one person, each measuring 7.8sqm, with a bathroom and kitchen/communal/dining space (24.8sqm) to the rear. This would meet the requirements of DM7 for communal space for six people which requires 4sqm of floor area to be provided per occupant.
- 9.19. At first floor there would be four further single bedrooms each measuring 7.9sqm. All of the bedrooms would meet the minimum width requirement of 2.15m at full height, with additional areas under the sloping roofline of restricted head height. While DM1 requires a double bedroom to be provided, the property is considered to provide suitable space for single occupants within a HMO use. The requirement for a double bedroom becomes more pertinent when a proposal relates to a family dwelling.
- 9.20. Concerns have been raised in objections that the required floor space of DM1 has not been provided. The application is for six single occupancy rooms and the requirements for these rooms has been met in terms of size, width, outlook and natural lighting. 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.

- 9.21. 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.
- 9.22. To the rear of the property there is a garden, which is considered suitable in size for the level of occupation, in accordance with Policy DM1.
- 9.23. Overall, it is considered that the proposed layout of the property as a small HMO (six 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 Residential Amenity:

- 9.24. Policy DM20 of City Plan Part 2 states that planning permission for development will be granted where it would not cause unacceptable loss of amenity to the proposed, existing and / or adjacent users, residents, occupiers or where it is not liable to be detrimental to human health.
- 9.25. The replacement and enlargement of the windows to the front elevation would not result in any increase in overlooking. Alterations to the front to change the southern (side) elevation door to a window would provide more of a view of the streetscene, a non-private area, with no additional impact on neighbouring amenity anticipated. Alterations to the rear ground floor door and window would set the door/window further away from the boundary, and replacing the door with a window would reduce the rear glazing area.
- 9.26. The concerns about the potential for antisocial behaviour raised in objections received are noted. However they make assumptions about the behaviours of individuals occupying a HMO compared with those occupying a family home which could equally cause disruption. Antisocial behaviour is more appropriately managed through other regimes such as via the Police.
- 9.27. Concerns have been raised regarding the potential noise output of the HMO. Internal soundproofing measures are proposed along the party wall which should manage sound transmission and mitigate the potential for harm. It is not considered that the use of the HMO in principle would lead to significant increased in noise output that would warrant permission being withheld. The implementation of the proposed soundproofing prior to occupation has been secured by condition. General noise disturbance can also be managed through other regimes such as the Environmental Health Team.

Other Matters

- 9.28. Concerns have been raised that the proposed development would have an unacceptable impact on the local highway due to increased occupancy and associated vehicles requiring parking spaces. The site does not lie within a controlled parked zone, and there is free on-street parking available. The proposed site layout shows a total of four secure cycle parking spaces. These numbers are in accordance with the guidance in Supplementary Planning Document 14: Parking Standards and there is no objection in principle. Therefore, the Local Highway Authority has limited power to restrict parking, and this would not be reasonable grounds to withhold planning permission.
- 9.29. Concerns raised about the buy-back scheme, local school, healthcare provision and businesses are not material planning considerations.
- 9.30. An objection requested all comments on HMO applications in the area be added to this application. Applications and their comments are assessed on a case by case basis and procedure does not allow for comments from previous applications to be added to new applications.
- 9.31. There is an identified shortage of housing within the city. HMOs are not exclusively let to students; therefore the presence of purpose-built student accommodation in the wider area does not remove the need for this type of shared accommodation, which can be occupied by young professionals and others unable to afford private accommodation.
- 9.32. Objections have raised concerns about the decision-making process. This application has followed the correct process and procedures, including consultation with the public.
- 9.33. The management and upkeep of the HMO is not a material planning consideration as planning permission runs with the site, so this has not been assessed as part of this application.
- 9.34. Matters such as loss of property value, structural safety, and the impact of construction works are not material planning considerations.
- 9.35. Concerns about the method by which the owner would communicate energy use to tenants has been raised; this is not a material planning consideration.

Conclusion

- 9.36. The proposed development is considered to be acceptable in principle, in terms of the standard of accommodation that would be offered to residents, its appearance, and the impacts it is anticipated to have on the amenities of local residents and on highway safety. The proposal is considered to be in accordance with policies CP8, CP11, CP12 and CP21 of the Brighton and Hove City Plan Part One, and DM1, DM7, DM18, DM20, DM21, DM33, DM35, DM36, DM40, DM43 and DM44 of the City Plan Part Two.

10. EQUALITIES

- 10.1. During the determination of this application, due regard has been given to the impact of the scheme in relation to the Equality Act 2010 in terms of the implications for those with protected characteristics, namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is no indication that those with any of these protected characteristic would be disadvantaged by this development.

11. COMMUNITY INFRASTRUCTURE LEVY

- 11.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23rd July 2020 and began charging on all CIL liable planning applications on and from the 5th October 2020. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as is practicable after the issuing of planning permission.