

<b><u>No:</u></b>	<b>BH2024/00443</b>	<b><u>Ward:</u></b>	<b>Goldsmid Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>18 - 20 Caburn Road Hove BN3 6EF</b>		
<b><u>Proposal:</u></b>	<b>Change of use from adult care services (C2) to use as either a house in multiple occupation (Sui Generis) or as a Class C2 facility.</b>		
<b><u>Officer:</u></b>	Michael Tucker, tel: 292359	<b><u>Valid Date:</u></b>	19.02.2024
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	15.04.2024
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	17.05.2024
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	T And L Land Developments 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	TA1501/01		19 February 2024
Proposed Drawing	TA1501/10	A	19 February 2024
Proposed Drawing	TA1501/11	B	19 February 2024
Proposed Drawing	TA1501/12	B	19 February 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 measures set out in the Management Plan received on 19th February 2024 shall be fully implemented and the occupation and use of the building as a Large HMO (Sui Generis) shall be in strict accordance with the approved management plan.

**Reason:** To safeguard the amenities of occupiers of the adjoining properties and to comply with Policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

4. The internal layout detailed on the proposed floorplans TA1501/11 B and TA1501/12 B received on 19th February 2024 shall be implemented prior to first use of the building as a large HMO (Sui Generis) and shall be retained thereafter whilst in large HMO use. The rooms annotated as "Kitchen/dining", "Sitting room" and "Communal Utility" as set out on drawing TA1501/11 B received on the 19th February 2024 shall be retained as communal space and shall not be used as a bedroom at any time. Bedroom "2" on the ground floor and bedroom "5" on the first floor shall at no time be used as a double occupancy bedroom.  
**Reason:** To ensure a suitable standard of accommodation for occupiers and to comply with Policies DM1 and DM20 of the Brighton & Hove City Plan Part Two.
5. The development hereby approved shall only be occupied by a maximum of fifteen (15) persons when in use as a large HMO (Sui Generis), and a maximum of twelve (12) persons when in use as adult care services (C2).  
**Reason:** To ensure a satisfactory standard of accommodation for future occupiers and to comply with Policies DM1 and DM20 of the Brighton & Hove City Plan Part Two.
6. 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.
7. The dwelling shall be occupied as either a sole large House in Multiple Occupation (Sui Generis) or as a sole adult care services (C2) only unless otherwise agreed in writing by the Local Planning Authority and shall not be used as separate independent units of accommodation.  
**Reason:** As this matter is fundamental to the acceptability of the permission hereby approved.

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. It is advised that an HMO Licence shall be required. An application can be made via the Council website.

## 2. SITE LOCATION

- 2.1. The application relates to a pair of two-storey terraced buildings on the western side of Caburn Road, at the corner with Old Shoreham Road. The area is residential in character, with rows of terraced two-storey buildings arranged

perpendicular to Old Shoreham Road. The Brighton, Hove and Sussex Sixth Form College (BHASVIC) is located on the opposite side of Old Shoreham Road to the north.

- 2.2. The two buildings are connected internally and have most recently been in use as a ten-bedroom adult care facility (C2), operated by St John's College. This use was granted planning permission in 1998 subject to a condition securing a maximum of twelve residents.
- 2.3. Planning permission (BH2023/02468) has recently been granted and is extant for a change of use of the site from adult care services (C2) to a ten-bedroom, fifteen-person house in multiple occupation (HMO) (Sui Generis). It is understood that this permission has not yet been implemented.

### 3. RELEVANT HISTORY

- 3.1. **BH2023/02468** - Change of use from adult care services (Class C2) to ten bedroom house in multiple occupation (Sui Generis). Approved 16/01/2024
- 3.2. **PRE2023/00116** - Change of use from adult mental health care home (Class C2) to suis generis HMO (11 bedrooms). Note that existing facility has a planning condition (BH1998/01314) limiting occupancy to 12 persons. Can the Council also comment on the level of shared internal space (see ground floor plan) that is proposed for the 11 bedrooms. Response issued
- 3.3. **BH1998/01314/FP** - Change of use from hotel/guest house (Use Class C1) to residential care home (Use Class C2). Approved

### 4. APPLICATION DESCRIPTION

- 4.1. The current application seeks planning permission for a change of use from adult care services (planning use class C2) to a flexible use as either a ten-bedroom, fifteen-person HMO (Sui Generis – outside of any use class) or as adult care services (C2). No external works are proposed.
- 4.2. The proposed 'flexible' use is defined within Schedule 2, Part 3, Class V of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This allows for the use of the building to convert, subject to any attached conditions, between the two specified uses (in this case as adult care services (C2) or a ten-bedroom HMO (Sui Generis)) for a period of ten years. After this period, the lawful use of the building would become whichever of the two was last in place.

### 5. REPRESENTATIONS

- 5.1. **Six (6)** letters of objection have been received raising the following issues:
  - Loss of property value

- Further information required regarding proposed uses
- Noise disturbance in a family street
- Concerns regarding potential future occupiers of a C2 use
- More letters should have been sent to local residents

5.2. Full details of representations received can be found online on the planning register.

## 6. CONSULTATIONS

6.1. **Housing:** No comment received

6.2. **Planning Policy:** No objection. The site already has an extant planning consent granted under BH2023/02468, to change use from C2 to HMO and this is a material consideration. The principle of the loss of C2 facility and change of use to HMO has already been accepted.

6.3. The proposal is considered to be in compliance with DM5.2 (a), (b) and (d).

6.4. **Public Health:** No comment received

6.5. **Private Sector Housing:** Comment: Should the application be approved then the applicant will need to apply for a HMO Licence via the council's website.

6.6. **Social Care & Housing:** No comment received

6.7. **Southern Water:** Comment: Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.

6.8. **Sustainable Transport:** Verbal comment: No objection SPD14 requires a minimum of 1 cycle parking space per 2 beds for a long stay, so 7 cycle spaces are needed for this development. The applicant is proposing 8 cycle parking spaces: 4 in a cycle store at the rear garden and 4 in uncovered cycle parking in front of the property. This is acceptable. However, the Local Highway Authority expects the proposed cycle store to be covered. Full details of cycle storage should be secured by 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 Joint Area Action Plan (adopted October 2019).

## 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
CP21	Student housing and Housing in Multiple Occupation

#### Brighton & Hove City Plan Part Two

DM1	Housing Quality, Choice and Mix
DM5	Supported Accommodation (Specialist and Vulnerable Needs)
DM7	Houses in Multiple Occupation
DM20	Protection of Amenity
DM33	Safe, Sustainable and Active Travel

#### Supplementary Planning Documents:

SPD14	Parking Standards
SPD17	Urban Design Framework

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the impact upon neighbouring amenity, the standard of accommodation to be provided and transport matters.

### **Background:**

- 9.2. The change of use of the site from adult care services (planning use class C2) to a ten-bedroom, fifteen-person HMO (Sui Generis) has already been approved, in January 2024, under planning permission reference BH2023/02468. This permission is extant and must be afforded significant weight. As part of this previous application, the loss of the C2 use was justified in accordance with the requirements of Policy DM5 of the City Plan Part Two, and the proposed HMO use was demonstrated to meet the tests set out in Policy CP21 of the City Plan Part One and Policy DM7 of the City Plan Part Two.
- 9.3. The current proposal differs in that it is for a flexible C2/HMO use. This means that the use of the site could fluctuate between adult care services (C2) and a large HMO (Sui Generis) for a period of ten years. However, both uses would operate with the same internal layout as indicated on the proposed plans.

**Principle of Development:**

- 9.4. No objection is raised to the principle of the proposed flexible C2/Sui Generis HMO use. The loss of the existing C2 use was established as acceptable as part of the extant permission (BH2023/02468), and its temporary or permanent loss as part of the current proposal would therefore not be objectionable. The evidence that was provided by the applicant for BH2023/02468 to satisfy Policy DM5 can be summarised as:
- the existing site layout was not ideal
  - the sale of the site would allow for the provision of higher quality supported accommodation elsewhere by the same operator
- 9.5. This evidence was reviewed by the Planning Policy and Adult Social Care consultees who raised no objections.
- 9.6. In terms of the proposed Sui Generis HMO use, 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 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."*
- 9.7. A mapping exercise has been undertaken which indicates that there are 53 residential properties and flats within a 50m radius of the application property, two of which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is 3.8%. The existing percentage of neighbouring properties in HMO use is less than 10%, and the change of use of the property to a Sui Generis HMO would therefore not conflict with the aims of policy CP21.
- 9.8. 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."*

- 9.9. Criterion a) has been assessed and the percentage of dwellings in the wider neighbourhood area has been calculated at 2.1% and therefore criterion a) has been met.
- 9.10. Criterion b) 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). There are two HMOs to the east (contiguous with each other) however given that the application site is separated from these by Caburn Road it is considered that a continuous frontage would not be created.
- 9.11. Considerations regarding amenity space and communal living (criteria d) and e)) are set out below.
- 9.12. The proposed Sui Generis HMO use would therefore be acceptable in principle.
- 9.13. The development is therefore considered to comply with relevant tests of Policies DM5, DM7 and CP21 and is acceptable in principle.

**Impact on Amenity:**

- 9.14. The proposal would result in an increase in occupants on site, from ten under the existing use to fifteen as proposed under the Sui Generis HMO use. However, it is noted that the current C2 use is limited by planning condition to a maximum of twelve care-receiving occupants on site. Additional care-giving staff would reasonably be expected to be on site for care for the residents, and this would result in a higher number of occupants on site that could be accommodated under the existing use that would be broadly comparable to the proposed HMO occupancy in terms of overall resident numbers and visitor numbers.
- 9.15. Potential noise and disturbance can be described as *"functions of the way particular residents behave rather than being inherently dependant on the status of the property as a dwellinghouse or HMO"*, as noted by an Inspector in a previous appeal decision (APP/Q1445/W/20/3254632 relating to application BH2019/01490 at 64 Islingword Road). On the above basis of the proposed number of occupants being comparable to those potentially able to be accommodated under the existing use, it is considered it would be unreasonable to refuse this development on the assumption that future residents would behave in a problematic manner.
- 9.16. The application includes a Management Plan (for HMO use) setting out measures to reduce the noise impact of the development. Measures identified with the Management Plan include vetting of prospective tenants, details of the managing agent for neighbours to contact in the case of disturbance, a complaints procedure for neighbours, and the use of noise dampening door closers and carpets. Compliance with the Management Plan can be secured by condition.

- 9.17. It is noted that an HMO would require licensing by the Council's Private Sector Housing team and thus be required to comply with management standards as well as other requirements. Additionally, the granting of this planning permission would not prohibit the Environmental Health team acting against 'statutory nuisance' under the Environmental Protection Act 1990 if this was required in the future.
- 9.18. Refuse storage would occur as at present and there would not be a significantly different impact compared to the existing use.
- 9.19. Accordingly, the proposed use of the property as a large HMO for up to 15 persons is considered unlikely to be detrimental to neighbouring amenity or the amenity of the area. It is also a material consideration that there is an extant planning permission for a 15-person HMO.
- 9.20. Were the use of the building to revert back to a C2 use at a later date this would be unlikely to have any greater impact on neighbouring amenity than the existing use, subject to a condition restricting maximum occupancy to twelve residents as has been the case previously. The concerns raised in public representations are acknowledged, however as the site has been established in C2 use for over two decades it is considered that it would be unreasonable to take the position that a reversion to C2 use would result in a significant harmful impact.
- 9.21. Therefore, on this basis the proposal is considered to be in accordance with Policy DM20 of the City Plan Part Two.

**Standard of Accommodation:**

- 9.22. It should be noted that as a proposed flexible use, the proposed internal layout must be suitable as both a Sui Generis large HMO and C2 adult care services use.
- 9.23. The proposed internal layout would comprise 315sqm of accommodation set over two storeys, with ten bedrooms of (excluding en-suites):

Ground floor:

17sqm, 17sqm, and 10sqm

First floor:

19sqm, 17sqm, 17sqm, 15sqm, 14sqm, 11sqm, and 9sqm

- 9.24. Each of the bedrooms would be of regular proportions allowing space for furniture and circulation and would have access to natural light and outlook. Every bedroom would have access to an en-suite W/C with further communal W/C facilities on each floor. Five of the bedrooms are proposed as double rooms and it is considered that there are enough bedrooms of a sufficient size and proportion to accommodate this.



9.25. There are proposed communal areas comprising a 21sqm kitchen/dining space and a 23sqm lounge. There is also a further 19sqm communal area, for a total of 63sqm of communal space.

As an HMO:

9.26. Policy DM1 of the City Plan Part 2 adopts the Nationally Described Space Standards (NDSS). The proposals are also considered against DM7 which sets the expected standards of accommodation for HMOs.

9.27. The proposed HMO would be a ten-bedroom, fifteen-person dwelling across two storeys. The NDSS gives no direct comparator, however the proposal would comfortably exceed an extrapolation from a six-bedroom, eight-person figure of 132sqm.

9.28. No section drawings have been provided to demonstrate the available headroom within the building. The building is however established for a residential use and it is considered that the headroom requirements of an HMO would not be dissimilar to those of the existing use within Class C2.

9.29. On the basis of fifteen-person occupancy, the proposal would be in accordance with Policy DM7 which seeks to secure a minimum of 4sqm of communal space per occupant. Occupancy levels and the continued retention of the communal areas can be secured by a recommended condition.

9.30. The rear communal area would double as an access to the outdoor garden area, however this is not the sole communal area and as such this is considered not to be an objectionable arrangement.

9.31. Some outdoor amenity space (32sqm) would be available to residents in the form of the rear patio and garden. Whilst not of a particularly generous size, this would be useable and would provide benefit to residents and is therefore considered not to be an objectionable element of the scheme. The other outdoor areas such as the vehicle parking area and front/side gardens are considered to be less useable due to their proportions and being heavily overlooked from the street. It is also noted that the site benefits from being located close to a local park for amenity.

9.32. Overall, it is considered that the proposed layout would provide an acceptable standard of accommodation as a Sui Generis HMO for the number of occupants proposed, in accordance with policies DM1 and DM7 of the City Plan Part Two. It should also be noted that a separate HMO license would be required from the council, that regulates basic standards and minimum room sizes.

As a C2 use:

9.33. The proposed layout is similar to the existing layout. The outdoor space and number of bedrooms would be unchanged, and whilst two small office rooms would be lost, these would be replaced by an enlarged communal area on the ground floor and a larger bedroom on the first floor.

- 9.34. Part of the justification for the loss of the existing C2 use was that the existing internal layout was not ideal. The items raised by the applicant and by the Council's Adult Social Care team were:
- the limited outdoor space
  - the limited internal communal spaces
  - the high number of bedrooms (and therefore occupants) both within the building and on the first floor specifically.
- 9.35. Whilst the proposed layout does little to address these shortcomings, the suitability of the layout is considered not to be materially any worse than the existing layout.
- 9.36. Accordingly it is considered that the proposed layout would, overall, be acceptable for a C2 use in view of the shortcomings of the existing layout which could otherwise be retained in the future.

**Sustainable Transport:**

- 9.37. The proposal is considered unlikely to result in a significant increase in trip generation or to have a severe highways impact.
- 9.38. The retention of the existing on-site car parking area and vehicle access off Old Shoreham Road is proposed. This would allow for approximately one to two vehicles and would be in compliance with SPD14 maximum standards. The site is located within a Controlled Parking Zone (CPZ) and so any demand for on-street car parking can be managed through the CPZ system.
- 9.39. Eight cycle parking spaces are proposed, four covered spaces at the rear and four uncovered spaces to the front of the site. This is in accordance with SPD14 standards which would require eight cycle parking spaces for the development (as a fifteen-bedroom HMO - fewer as a C2 use), and is considered acceptable. It is noted that only four of the spaces proposed are covered, whereas ideally all the proposed spaces would be. However, a covered store to the front would have an increased visual impact, and an enlarged store to the rear would reduce the available outdoor amenity space for occupiers. It is considered that the proposal strikes a reasonable balance between providing sufficient cycle parking, making best use of the limited outdoor space on site, and preserving the appearance of the site.

**10. CONCLUSION:**

- 10.1. No objection is raised to the principle of the development proposed. The loss of the existing adult care services (C2) use has previously been justified in compliance with Policy DM5 of the City Plan Part Two as part of application BH2023/02468, and this reasoning would still hold. Were the use of the building to revert back to a C2 adult care services use during the flexible period this would similarly not be objectionable. Subject to conditions securing compliance with an HMO management plan and limiting the number of occupiers of the proposed uses, no significant impact upon neighbouring amenity is anticipated over and above the extant permission for an HMO. The standard of accommodation for

the proposed HMO use is considered acceptable, and would not be materially worse than the existing layout for C2 use. Matters relating to sustainable transport are considered acceptable.

## **11. EQUALITIES**

11.1. Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

11.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics. The site does not provide level access to the upper floors, however given the small scale of the development and that it is a conversion of an existing building, this is considered not to be objectionable in this case. One of the rooms would have an accessible en-suite w/c.

