

<b><u>No:</u></b>	<b>BH2024/01772</b>	<b><u>Ward:</u></b>	<b>Patcham &amp; Hollingbury Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>65 Ladies Mile Road Brighton BN1 8TB</b>		
<b><u>Proposal:</u></b>	<b>Change of use from dwellinghouse (C3) to seven bedroom large house in multiple occupation (Sui Generis).</b>		
<b><u>Officer:</u></b>	Mark Thomas, tel: 292336	<b><u>Valid Date:</u></b>	17.07.2024
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	11.09.2024
<b><u>Listed Building Grade:</u></b>		<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>	Ms B Haxby 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	03		17 July 2024
Proposed Drawing	02		17 July 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 sui generis 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 room and 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.

4. The development hereby permitted shall not be occupied as a sui generis HMO 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.

5. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

**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.

6. The hereby approved development shall only be occupied by a maximum of seven (7) persons.

**Reason:** To ensure a suitable standard of accommodation for occupiers to comply with policies DM1, DM7 and DM20 of the Brighton & Hove City Plan Part Two.

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 property as built is a two-storey semi-detached house situated on the north side of Ladies Mile Road. The property has been extended to the western end with a two-storey extension. This extension sits lower in the plot than the main house which means that a lower ground floor level has been introduced. The property is on a corner plot with the side elevation facing onto Ladies Mile Close. To the east and west of the property are residential uses. To the north, at the rear of the site, is Mackie Park, which comprises open green space and a children's playground. Directly opposite the site on the south side of Ladies Mile Road are further residential properties. To the south-west is Patcham Junior School, and Patcham High School beyond.
- 2.2. The property has historically been subdivided into two units, although this was carried out without the benefit of planning permission. An enforcement notice was served in January 2015 to cease the use as two self-contained units and restore the property to a single dwellinghouse. The property is currently used as a single dwellinghouse (C3), and council records indicate that this has been the case since at least August 2015 which indicates compliance with the enforcement notice.

### 3. APPLICATION DESCRIPTION

- 3.1. Planning permission is sought for the change of use of the property from a single dwellinghouse to a 7-bedroom House in Multiple Occupation (HMO) for up to 9 occupiers (Sui Generis).
- 3.2. Five bedrooms would be accommodated within the two-storey extension, with three at lower ground floor and two at ground floor level. The lower ground floor would also provide a communal shower room, and the two ground floor bedrooms would have ensuite bathrooms. The remainder of the ground floor would comprise a living room, dining room and kitchen. Two further bedrooms, one with ensuite, would be provided on the first floor, as well as a further communal bathroom.
- 3.3. No external alterations are proposed to the main building as part of the proposal.

### 4. RELEVANT HISTORY

- 4.1. **Enforcement Notice dated 22/01/2015** Requirement: Cease the use of the house as two self-contained residential units and restore the property to its condition before the breach took place i.e. as a single dwelling house. Complied with August 2015
- 4.2. **BH2003/03421/FP** First floor side extension over existing garage (Amendment and Re-submission of Refused application BH2003/01843/FP). Approved 23/12/2003
- 4.3. **BH2003/01843/FP** First floor side extension over existing garage Refused 07/08/2003
- 4.4. **BH1999/01152/FP** Erection of new double garage and demolition of existing. Approved 08/07/1999
- 4.5. **92/0236/FP** Single storey rear extension to enlarge existing garage and kitchen. Approved 01/04/1992

### 5. REPRESENTATIONS

- 5.1. Thirteen (13) letters of representation have been received objecting to the proposed development for the following reasons:
- Increased occupancy of building
  - Noise
  - Litter
  - Anti-social behaviour
  - Parking stress

- Impact on highway safety from increased traffic movements
  - Pressure on refuse/recycling bins
  - Light pollution
  - HMO occupation would not represent the current demographic of the area (family housing)
- 5.2. **Councillors McNair and Meadows** Object to the proposed development for the following reasons. A full copy of their representation is also attached to this report.
- The area is mainly semi-detached, low density housing
  - Occupiers could have irregular hours compared to neighbouring families
  - Noise
  - Antisocial behaviour
  - Parking stress
  - Increased traffic hazard
  - Increased rubbish/recycling which would spill onto the street
  - Approving the development would set a harmful precedent

## 6. CONSULTATIONS

- 6.1. Sustainable Transport: No objection
- The change of use is unlikely to result in increased vehicle trips.
  - The cycle parking is acceptable.
  - The vehicle crossover should be reinstated if it is redundant.

*Note: The applicant has confirmed that the vehicle crossover would not be redundant as onsite parking would be retained for the owner of the property and for visiting contractors.*

## 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. RELEVANT POLICIES & GUIDANCE

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP21	Student housing and Housing in Multiple Occupation

#### Brighton & Hove City Plan Part Two:

DM1	Housing Quality, Choice and Mix
DM7	Houses in Multiple Occupation
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM33	Safe, sustainable and active travel
DM36	Parking and servicing

#### Supplementary Planning Documents:

SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards
SPD17	Urban Design

## 9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to whether the principle of an HMO can be supported in this location having regard to HMO policies, the proposed standard of accommodation for the HMO, impacts on neighbouring amenity and transport matters.

#### **Principle of the Development:**

- 9.2. The application seeks consent for the change of use from a single dwellinghouse to a HMO (Sui Generis) consisting of 7 bedrooms. The submission documents indicate that 2 bedrooms would be suitable for dual occupancy meaning there is a potential maximum occupation by 9 persons.
- 9.3. 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."*
- 9.4. A mapping exercise has been undertaken (September 2024) which indicates that there are no properties which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the 50m radius area is thus 0%.
- 9.5. The change of use to a seven-bedroom HMO (Sui Generis) would therefore be in accordance with the aims and criteria of policy CP21.
- 9.6. Policy DM7 of the Brighton and Hove City Plan Part Two 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."*
- 9.7. Criterion a) has been assessed and the percentage of dwellings in the wider neighbourhood area has been calculated at 0.34% so it has been met. In relation to criterion b), the area has been assessed and it is confirmed that the proposal would not 'sandwich' a non-HMO between two existing HMOs; nor would it lead to a continuous frontage of three or more HMOs so would accord with criterion (c). With regards criterion (d) the standard of living accommodation is considered acceptable including the amount of communal space. Full considerations regarding amenity space and communal living (criteria (d) and (e)) are set out below.
- 9.8. On this basis, there is no objection to the change of use of the property in principle to an HMO as the scheme is considered to be in full accordance with Policies DM1 and DM7 of the Brighton and Hove City Plan Part Two.

**Standard of Accommodation:**

- 9.9. The proposed standard of accommodation is being considered against Policy DM1 of the Brighton and Hove City Plan Part Two (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.

- 9.10. In terms of the bedrooms, the two bedrooms indicated as being dual-occupancy (bedrooms 4 and 5) exceed the 11.5m<sup>2</sup> requirement being proposed at 15.6m<sup>2</sup> and 15.8m<sup>2</sup>. The remaining 5 bedrooms are all single rooms which exceed the minimum 7.5m<sup>2</sup> (ranging from 8.8m<sup>2</sup> to 14.8m<sup>2</sup>) in accordance with NDSS recommendations. The proposed bedrooms are overall considered of adequate size and proportions to accommodate the necessary furniture and circulation space. All bedrooms would be served by existing windows which would provide adequate natural light and outlook as well as natural ventilation and no further concerns are held in this regards.
- 9.11. The proposed layout includes use of part of the ground floor as communal living space (living room, dining room and kitchen) for future occupiers. The overall provision of communal space from these rooms provides a total of 41.3m<sup>2</sup>. This provision would exceed the recommended 4m<sup>2</sup> per occupier recommendation for communal space (36m<sup>2</sup> in this case) within the supporting text of DM7. The communal areas would have sufficient room available for the necessary associated furniture and circulation space, and would be adequately served for natural light and ventilation by the existing fenestration.
- 9.12. In addition to the above, the property would benefit from a rear garden which would be of suitable size for 9 occupants. The front and rear gardens would also be of sufficient size for refuse storage (within the front garden) and a cycle store (within the rear garden) and these are indicated on the submitted drawings. It is recommended that implementation of the cycle parking and refuse/recycling provision is secured by condition.

**Impact on Amenity:**

- 9.13. 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.
- 9.14. The proposed use of the property as a large HMO is anticipated, in principle, to result in some increase in noise output due to the presence of multiple independent adults with separate routines. Comings and goings associated with the HMO use are also likely to differ to the existing use, and there may be activity at different times. There is some concern about the impact of the proposal for 9 occupants within 7 bedrooms, as that intensity of use is more likely to cause noise/disturbance- particularly for the adjoining neighbour. It is recommended that a condition is imposed to restrict the occupation to 7 individuals and with the condition it is not considered that the difference from the existing 6 bedroom occupancy would amount to such demonstrable harm to neighbouring properties to warrant refusal of the application.
- 9.15. Furthermore, the proposals would not sandwich any property between HMO uses or create a consecutive stretch of properties all within HMO use, which is in accordance with the recommendations of DM7 and it is also noted that

there are no other HMOs within 50m of the site which would contribute towards a cumulative impact.

- 9.16. The concerns received in representations with regards to the potential/increase in antisocial behaviour and disturbance are noted. However, behaviour of the occupants is the responsibility of the landlord and can be investigated through the Environmental Protection Act or Sussex Police. In planning terms the proposed increase in occupiers would not, subject to conditions, introduce a harmful intensification in the of the property to warrant refusal of the application.
- 9.17. No external alterations to the existing house are proposed as part of this application.
- 9.18. With regards to the impacts upon neighbouring amenity, the development is considered to be in accordance with policy DM20 of the City Plan Part Two.

**Sustainable Transport:**

- 9.19. The proposed change of use would not result in an increase in vehicle trips to a magnitude which would warrant an objection on highways grounds. It is also noted that there are local amenities within walking distance and also good bus links to most of the city.
- 9.20. The applicant proposes 6 cycle storage spaces within the rear garden. This would comprise 3 Sheffield stands within an existing shed. The rear garden can be accessed via the front and side garden areas without needing to enter the property. There also appears to be a side gate which would provide access from Ladies Mile Close near to the store, although there is potential for that gate to be obstructed by parked cars on the highway. SPD14: Parking Standards requires a minimum of 1 space per two-bedspaces, which would be exceeded. The store would be suitably secure and conveniently located and no concerns are held in this regard. It is recommended that implementation of the cycle store is secured by condition.
- 9.21. One car parking space is available on site and would be retained. The applicant has confirmed that this space would be retained for the owner and exceptional circumstances only i.e. for the use of contractors if repair of the building is required. The expectation is that occupiers of the HMO would not have access to this parking space. The proposed change of use may result in some overspill parking into surrounding streets, therefore, which are not within a controlled parking zone. Parking stress in the area is likely more heavily impacted by the proximity to two schools, and the impact of the modest intensification of use of the application site is not considered to be severe or create a sufficient impact to warrant a refusal of the application.
- 9.22. Accordingly, the proposal would be acceptable on highway and transport grounds.

**Conclusion:**



- 9.23. In principle, the creation of a HMO in this location is supportable due to concentrations within the 50m radius being below the limit set by policy CP21 (CPP1) and the concentration in the wider locality being below the maximum amount set within policy DM7 (CPP2). Subject to a condition restricting the level of occupation to 7 people, the standard of accommodation which would be offered would be acceptable, and the impact on neighbour amenity is not considered to be significantly more harmful than the use of the house as a six-bedroom single dwellinghouse. The provision of cycle storage would be acceptable and the site is well positioned for public transport, meaning the development would allow for sustainable transport choices.

## **10. EQUALITIES**

- 10.1. 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.

- 10.2. 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. It is noted that level access would not be available to the property so it would not be universally accessible. This is the existing arrangement, however, and there is limited scope to improve the existing arrangement (such as with a ramp) due to the modest size of the front garden. Refusal of the current application is not recommended on these grounds.

