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|--------------------------------------|---|----------------------------|-------------------------|
| <b><u>No:</u></b>                    | <b>BH2025/02379</b>   | <b><u>Ward:</u></b>        | <b>Woodingdean Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>  |                            |                         |
| <b><u>Address:</u></b>               | <b>297 Cowley Drive Brighton BN2 6TP</b>  |                            |                         |
| <b><u>Proposal:</u></b>              | <b>Retrospective Change of use from bungalow (C3) to 6-person small HMO (C4).</b> |                            |                         |
| <b><u>Officer:</u></b>               | <b>Steven Dover,</b>  | <b><u>Valid Date:</u></b>  | <b>06.11.2025</b>       |
| <b><u>Con Area:</u></b>              | <b>N/A</b>  | <b><u>Expiry Date:</u></b> | <b>01.01.2026</b>       |
| <b><u>Listed Building Grade:</u></b> | <b>N/A</b>  | <b><u>EOT:</u></b>         |                         |
| <b><u>Agent:</u></b>                 | <b>Lewis And Co Planning SE Ltd 2A Port Hall Road Brighton BN1 5PD</b>            |                            |                         |
| <b><u>Applicant:</u></b>             | <b>Andrew Chapman C/O Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD</b> |                            |                         |

## 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 Plan    |                      |                     | 25-Sep-25            |
| Block Plan       | 04-0520-08           | A                   | 14-Jan-26            |
| Proposed Drawing | 04-0520-05           | PROPOSED FLOOR PLAN | 14-Jan-26            |
| Proposed Drawing | 04-0520-06           | B                   | 14-Jan-26            |
| Proposed Drawing | PROPOSED CYCLE STORE |                     | 14-Jan-26            |

2. The HMO use hereby approved, shall only be implemented in strict accordance with the proposed layout detailed on the floor plans 04-0520-05, showing the new corridor to Bedroom 1, received on 14<sup>th</sup> January 2026, 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.

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

3. Within 3 months of the decision notice being issued for development proposed 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.

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.

**Biodiversity Net Gain**

Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the Environment Act 2021.

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the planning permission granted for the development of land in England is deemed to have been granted subject to the condition (the biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

**2. SITE LOCATION**

- 2.1. The application site, 297 Cowley Drive, is a detached, one-storey hipped roof bungalow property, located on the southern side of Cowley Drive. The property was extended to the rear following planning approval, under application BH2020/01545. The site level drops away to the south (rear) from the north (front), Cowley Drive.
- 2.2. The site is subject to the city-wide Article 4 Direction that has removed the right to change the use class of any (C3) residential unit to a (C4) small house in multiple occupation, which came into force on 3rd June 2020.

**3. RELEVANT HISTORY**

- 3.1. **BH2020/01545:** Erection of single storey rear extension, installation of rooflights to side and rear and alterations to fenestration. Approved 05.08.2020.

- 3.2. **BH2019/03187:** Prior approval for the erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 6.5m, for which the maximum height would be 3.5m, and for which the height of the eaves would be 3.0m. Refused 21.11.2019.
- 3.3. **BH2019/02401:** Prior Approval for the erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 6.5m, for which the maximum height would be 3.5m and for which the height of the eaves would be 2.75m. Refused 16.09.2019.

#### **4. APPLICATION DESCRIPTION**

- 4.1. The application is seeking to change the use of the property from a dwellinghouse (C3) to a small house in multiple occupation (C4).
- 4.2. As noted within the application submission, the property is already in use as a small dwelling house for 6 persons (C4) and currently let and as such the application is therefore retrospective. It has been used in this manner since April 2025 after the rear extension, approved under BH2020/01545, was built. The application seeks to confirm the change of use to a small HMO (C4), for a maximum of 6 occupiers.
- 4.3. Although the property is currently in use as a HMO, the use has not been in effect, uninterrupted, for more than 10 years, so is not immune from enforcement action and therefore is not considered lawful. Thus the applicant has applied for planning permission to regularise the use of the property as a small C4 HMO. While the C4 HMO use has already commenced, for the use to be acceptable now it must comply with the current development plan, including the HMO density tests and standard of accommodation, this is considered below.
- 4.4. The plans have been amended during the course of the application to alter the position of the proposed cycle storage and creation of an internal corridor in the communal area to minimise noise and disturbance to existing and future occupiers.

#### **5. REPRESENTATIONS**

- 5.1. **Eight (8)** representations have been received objecting to the application on the following grounds:
- Increase HMO applications in future
  - Detrimental impact on character of area
  - Detrimental effect on property value
  - Inappropriate Height of Development
  - Noise
  - Overdevelopment
  - Overshadowing

- Poor design
- Too close to the boundary
- Traffic or highways issues
- Appearance and rubbish

## 6. CONSULTATIONS

- 6.1. **Sustainable Transport:** No Objection subject to condition  
The proposal does not include any interior or exterior alterations.
- 6.2. There may be some parking overspill and additional trips as a result of the proposed change of use, but this is unlikely to be significant enough to warrant objection.
- 6.3. If the Planning Authority is minded to grant consent, then the details of cycle storage could be secured by the inclusion of a Cycle Parking Scheme condition.
- 6.4. Full details of consultation responses received can be found online on the planning register.

## 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; revised October 2024);
  - 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                                 |
| 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  
DM7 Houses in Multiple Occupation  
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 compliant with policy, the resulting standard of accommodation, the impacts of the development on neighbour amenity and transport matters.

**Principle of Proposed Change of Use:**

- 9.2. The application seeks consent for the change of use from a dwellinghouse (planning use class C3) to a small house in multiple occupation (HMO) (C4). 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 recent mapping exercise has been undertaken (January 2026) which indicates that there are over 28 properties within a 50m radius of the application property, 0 of which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 0%.

- 9.4. Based on the existing percentage of neighbouring properties in HMO use, which is less than 10%, the change of use to a three-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 0.14% so it has been met (January 2026: 713 Total Dwellings and 1 HMO's). 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; and would not lead to a continuous frontage of three or more HMOs so also 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 and the change of use of the site to a C4 HMO is acceptable in principle.

#### **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 Standard (NDSS) into the development plan. The requirement to meet this standard is further emphasised within d) and e) of Policy DM7 of CPP2.

9.9. The maximum occupation would be six persons, as although three bedrooms are suitable for double occupation and another is suitable for single occupation, the application is for small HMO (C4) so six residents is the maximum allowed for this use class. If the occupation level was desired to increase, a new application for a Large HMO (Sui Generis) would need to be made and considered on its merits.

9.10. The three double bedrooms (1,2 and 3) are suitable for double occupancy given their larger size (over 11.5sqm) and suitable layouts. Bedroom 4 for is suitable for single occupancy (over 7.5sqm, but less than 11.5sqm). The bedrooms all have windows and allow for natural light, outlook and ventilation for each of the bedrooms. Bedrooms and the communal spaces are served by one ensuite and two bathrooms (with W/C to each).

9.11. The plans have been amended to create new internal walls which means the user of Bedroom 1 does not have to access the communal lounge to enter the

bedroom and separating the communal space from this bedroom slightly more, reducing disturbance for all users of the HMO. The proposed cycle store unit has also been moved to a location which is not adjacent to the window serving Bedroom 1, as it would have caused disturbance to the occupier while in use.

- 9.12. The kitchen and living room combined provide over 37sqm of communal living space which is well in excess of the 4sqm required by policy DM7 per occupier (24sqm total for six residents) and allows for communal spaces which are of sufficient spatial quantity and quality for future occupiers of the HMO, also allowing rear access to the private outdoor amenity space.
- 9.13. The ceiling heights, from the existing elevations are circa 2.2m and considering they are for an existing property, are considered acceptable.
- 9.14. Overall, it is considered that the proposed layout of the property as a small C4HMO (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.
- 9.15. As the property is suitable to accommodate six persons, which is the maximum occupancy allowed under Use Class C4, it is not considered necessary to condition that the property has a maximum occupancy of Six (6) persons. As already stated, any increase over this amount would require planning approval for a change of use to a Large HMO (Sui Generis Use Class).

**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. As previously noted, this application proposed no changes to the external appearance or form of the property. Therefore, any impacts regarding overdevelopment, overshadowing and overlooking remain as current, and deemed acceptable under the implemented (and built) application BH2020/01545 which granted consent for an extension the rear of the property.
- 9.18. The change of use from a dwellinghouse to small HMO can create more comings and goings from the property and in a different pattern to the existing dwellinghouse use. However, it is not considered that the additional comings and goings from a small HMO use would amount to such substantial harm to neighbouring properties to warrant refusal of the application when compared to use as a dwellinghouse use.
- 9.19. As noted above, the application site is not in an area which currently has more than 10% of properties within 50m radius being in HMO use or 20% of the

wider neighbourhood area. While any additional HMOs may have the potential to increase the cumulative impact and harm to amenity with which they are often associated, in this instance the existing numbers of HMOs in the area is not enough to warrant refusal of the application on the grounds of potential amenity impact.

- 9.20. Furthermore, it is noted that a HMO of this size would require licensing by the Council's Private Sector Housing team and thus be required to comply with management standards, amongst 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.
- 9.21. Accordingly, the development would be considered acceptable in terms of any impacts on neighbouring amenity. It is also noted that the proposal complies with policy DM20 of the City Plan Part Two.

**Sustainable Transport:**

- 9.22. The change of use is unlikely to significantly increase trips or parking to/from the site over that of a C3 dwelling.
- 9.23. The application site is located in an area with unrestricted on street parking.
- 9.24. The site does provide a single off street car parking space to the side, via an existing crossover and is therefore policy compliant with SPD14 maximums for the outer area, which is one space for a 4 bedroom C4 HMO.
- 9.25. The plans show cycle parking and the amount is sufficient. Updated details have been submitted that show a secure cycle storage unit which is considered acceptable.
- 9.26. Transport officers have also been consulted and raise no objection to the development, subject to a cycle parking condition for a secure storage system that is not vertical. This has now been supplied so the requested condition is no longer considered relevant to impose, but a condition requiring implementation and retention is recommended.
- 9.27. Accordingly, the proposal is considered to comply with policies CP9 of the Brighton and Hove City Plan Part One and policies DM33 and DM36 of the Brighton and Hove City Plan Part Two.

**Other Considerations:**

- 9.28. The proposed change of use still results in a residential use and there are no external alterations (other than the provision of a bike store) required to facilitate the change of use. Therefore, it is considered that the character and appearance of the area is preserved.
- 9.29. It is noted in objector comments it is stated that the development as an HMO could affect property values. The planning system does not exist to protect private interests such as the value of land or property, and as such the affect



the proposed development could have upon property values does not hold weight in the determination of this application.

- 9.30. Objectors have also raised comment regarding the quality of the build and amount of rubbish onsite. These are not matters that can be considered in the determination of this application.

**Biodiversity Net Gain (BNG):**

- 9.31. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat and is retrospective.

## **10. CONCLUSION**

- 10.1. The proposed development is considered to be acceptable in principle as it meets the policy aims of DM1 and DM7 with a suitable standard of accommodation for the existing and future residents. In terms of the design approach the proposal would not result in harm to the appearance and character of the property as not external changes are proposed to the building form and therefore accords with DM18 and DM21. The amenity of the existing and future occupiers, and that of the surrounding residents, would not be significantly harmed, with no identified changes in the use of the property that would create significant noise or disturbance over the current lawful C3 Use, and accords with DM1, DM7 and DM20. For the foregoing reasons the proposal is recommended for approval.

## **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 determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

