

# **ITEM F**

**19 Hollingbury Park Avenue, Brighton**

**BH2014/01429**  
**Full planning**

**11 MARCH 2015**

# BH2014/01429 19 Hollingbury Park Avenue, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**

<b><u>No:</u></b>	<b>BH2014/01429</b>	<b><u>Ward:</u></b>	<b>HOLLINGDEAN &amp; STANMER</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>19 Hollingbury Park Avenue Brighton</b>		
<b><u>Proposal:</u></b>	<b>Change of use from residential dwelling (C3) to six bedroom small house in multiple occupation (C4). (Part retrospective)</b>		
<b><u>Officer:</u></b>	Wayne Nee Tel 292132	<b><u>Valid Date:</u></b>	16 May 2014
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	11 July 2014
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Lewis and Co Planning SE Ltd, 2 Port Hall Road, Brighton BN1 5PD		
<b><u>Applicant:</u></b>	J Barrett, C/O Lewis & 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 in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The site relates to a mid-terraced two storey property located on the western side of Hollingbury Park Avenue.
- 2.2 The pre-existing property was in use as a single dwelling house (Class Use C3). It is currently in use as a seven bedroom house in multiple occupation (Class Use Sui Generis) which does not have planning permission and is therefore an unauthorised use.
- 2.3 The site is located within the recently introduced Article 4 Direction which removes permitted development rights to change from a C3 (dwellinghouse) Use to a C4 (houses in multiple occupation) Use, which came into effect from 5 April 2013.

## 3 RELEVANT HISTORY

- 3.1 None.

## 4 THE APPLICATION

- 4.1 Planning permission is sought for the Change of use from residential dwelling (C3) to six bedroom small house in multiple occupation (C4).
- 4.2 The applicant states in the application that the change of use from C3 dwelling to C4 6 bed House in Multiple Occupation is fully complete. At the time of the site visit, the front ground floor room was in use as an additional bedroom rather than a living room. Therefore the application is part retrospective.

## 5 PUBLICITY & CONSULTATIONS

### External

5.1 **Councillor Jeanne Lepper** has objected to the application. Correspondence attached.

5.2 **Neighbours: *Eleven (11)*** letters of representation have been received from **15, GFF 17, Flats 1 & 2 (x2) of 21, 23, 46, 50, 52, 60 Hollingbury Park Avenue, 328, 330 Ditchling Road** objecting to the application for the following reasons:

- Increased noise and disturbance, less community involvement;
- Reduces available housing for families;
- Being used as a 7 bedroom HMO which has not been applied for;
- Existing floor plan does not show existing layout;
- Use of flat roof of extension as a roof terrace;
- Extension was built when property was an HMO and so are not permitted development;
- Loss of light from extension;
- Bright wall lights cause disturbance;
- Increased pressure on parking.

### Internal

5.3 **Planning Policy:**  
No comment.

5.4 **Sustainable Transport:**

Recommended approval as the Highway Authority has no objections to this application, subject to the inclusion of the necessary condition.

5.5 Trip Generation & S106

The proposals are for the change of use from a residential dwelling (C3) to a House in Multiple Occupation (C4). The proposals may increase trips slightly above existing levels as more people could live in this larger property. The number of bedrooms is to increase from 3 to 6. However, the development is not considered to cause a negative highway impact or warrant a refusal of planning permission.

5.6 Car Parking

The applicant is not proposing any on-site car parking spaces and due to site constraints could not provide any.

5.7 Cycle parking

Parking Standards SPG04 requires a minimum of 1 cycle parking space per 3 bed sits for a house of multiple occupation. The applicant has not indicated whether they intend to provide cycle parking or not.

While not ideal, as users would have to carry their bike through the property, there is scope to provide a cycle store in the rear garden of the property. In order to be in line with Policy TR14 of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, well lit, well signed and wherever practical, sheltered. The Highway Authority's preference is for the use of

Sheffield type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22. Therefore further details should be secured via condition.

## **6 MATERIAL CONSIDERATIONS**

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 6.2 The development plan is:
- Brighton & Hove Local Plan 2005 (saved policies post 2007);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
  - East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
  - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU13	Minimisation and re-use of construction industry waste
QD14	Extensions and alterations
QD27	Protection of Amenity
HO3	Dwelling type and size

HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO8	Retaining housing
HO14	Houses in multiple occupation (HMOs)

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD08 Sustainable Building Design

Brighton & Hove City Plan Part One (submission document)

SS1 - Presumption in Favour of Sustainable Development

CP21 – Student Housing and Housing in Multiple Occupation

## **8 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the principle of the proposed change of use, neighbouring amenity, the standard of accommodation which the proposed use would provide, transport and environmental sustainability.

**Principle of development:**

8.2 The proposed development is a change of use from a C3 (dwellinghouse) to a use which would allow occupation of the property as a C4 HMO providing 6 bed spaces for up to six unrelated individuals, who share basic amenities including a kitchen, a living room, and bathroom facilities.

8.3 The Brighton and Hove Local Plan pre-dates the formulation of the C4 use class, but does make specific reference to houses in multiple occupation. The sub-text of policy HO14 details that:

8.4 'It is recognised that in some areas of the city, a concentration of HMOs can cause various problems arising from heavy concentrations of people living within a small geographical area. Appropriate policies elsewhere in the Plan aimed at protecting amenities will also be important factors in assessing new proposals in respect of new HMOs and the loss of existing HMOs. Particularly important in this respect are policies QD27 and HO4.'

8.5 Policy CP21 of the Brighton and Hove Draft City Plan Part One specifically addresses the issue of changes of use between use classes C3 and C4 and states that:

8.6 '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 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:

- 8.7 *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.*
- 8.8 This policy at present has significant weight as the adopted Local Plan is silent on the issue. The site is located within the recently introduced Article 4 Direction which removes permitted development rights under Class I (b) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, to change from a C3 (dwellinghouses) Use to a C4 (houses in multiple occupation) Use, which came into effect from 5 April 2013.
- 8.9 A mapping exercise has taken place which indicates that there are currently 4 registered C4 dwellings or HMOs within a 50m radius of the site. A total of 79 properties have been assessed. The existing concentration of C4 House in Multiple Occupation within that radius is 5.1%. Whilst in principle the change of use would therefore be acceptable, the proposal is likely to result in a more intensive occupation of the property; consideration on the potential impact on neighbouring amenity also needs to be considered. These matters are discussed further below.

**Standard of accommodation:**

- 8.10 In its pre-existing form (shown on the existing floor plans submitted) the dwelling had three bedrooms as part of its original layout and two additional bedrooms within the loft conversion, and therefore could comfortably be occupied by 5-6 people. The application proposes one additional bedroom on the ground floor to replace the pre-existing dining room.
- 8.11 The accommodation proposed is not ideal; the roof level bedrooms are relatively small in terms of floor space (the second floor rear bedroom is 6.6sqm). There are however two communal rooms proposed (front living room and rear kitchen) and overall it is considered that the standard of accommodation proposed does not warrant the refusal of planning permission.
- 8.12 It is considered that the intensified use may require greater provision for refuse and recycling and cycle storage; this existing storage provision is currently located at the front of the property and would be an acceptable arrangement for the proposed use. The proposed plans do not indicate any cycle storage; although not ideal in terms of accessibility, there would be opportunity for cycle storage within the rear yard and could be conditioned.

**Neighbouring Amenity:**

- 8.13 Objections have been raised from neighbouring residents in relation to concerns of noise and disturbance from the previous unauthorised use and that this could occur with the proposed use.
- 8.14 It is established that a change to a C4 House in Multiple Occupation would not in this instance result in a local over-concentration of properties in such use. The proposed use may result in a more intensive use of the property and a greater impact upon the immediate and surrounding area, and upon neighbouring amenity. Given the concentrations assessed above, it is considered that the

increased impact likely to be caused in this case would not be of a magnitude which would cause demonstrable harm to neighbouring amenity and would not warrant the refusal of planning permission.

8.15 Objections have been received on the basis that the existing use of the property is seven bedrooms rather than the six bedrooms that are proposed in the current scheme, and this has been confirmed on site. Following the determination of this application, the matter shall be referred back to the Enforcement Team in order to assess the current unauthorised use of the application site.

8.16 Objections have been received relating to the ground floor rear extension with outdoor lights and a flat roof that is used for an amenity space. It is presumed that the existing rear extension was constructed under permitted development. At the time of the site visit there was no indication that the flat roof of the extension was being used as an amenity space that would require Planning Permission.

**Transport:**

8.17 The proposed C4 use would be likely to create greater trip generation than a C3 use. However, in this case it is not considered that such an increase would cause a negative highway impact.

8.18 Policy TR14 requires that all developments provide cycle storage for occupiers of the development and visitors to the development. This has been considered above.

**9 CONCLUSION**

9.1 The proposed change of use is considered to be acceptable in this location. No significant harm to neighbouring amenity would be caused and adequate cycle storage would be secured by planning condition.

**10 EQUALITIES**

10.1 None identified

**11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES**

11.1 Regulatory Conditions:

1) 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.

2) 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
Site plan	n/a		01 May 2014
Existing and proposed	1182/01		16 May 2014

- 3) Within three months of the date of this permission, details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use within three months of the details being agreed and shall thereafter be retained for use 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 TR14 of the Brighton & Hove Local Plan.

11.2 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) 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. This decision to grant Planning Permission has been taken:
  - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:  
(Please see section 7 of the report for the full list); and
  - (ii) for the following reasons:-  
The proposed change of use is considered to be acceptable in this location. No significant harm to neighbouring amenity would be caused and adequate cycle storage would be secured by planning condition.

Planning and Public Protection  
Brighton and Hove City Council  
Hove Town Hall  
Norton Road  
Hove  
BN3 3BQ

7<sup>th</sup> June 2014

For the Attn: Wayne Nee

Dear Sir,

**Application BH2014/01429 – 19 Hollingbury Park Avenue**

I am writing to oppose this retrospective planning application both as a ward councillor who has received a number of complaints and objections from constituents and as a resident affected by the current use of the property and who, like my constituents, would continue to be affected if the application were granted. I would like to attend the meeting when the application is considered in order to speak against it.

Throughout the summer of 2013 substantial work was carried out to convert what had been a residential house into what was advertised by G4 Lets agency on its website in September 2013 as a “newly refurbished 7 bedroom student house.” The advert specified that 5 of the bedrooms had double beds.

The house was occupied from the start of the 2013/2014 academic year and the electoral register shows 7 people currently listed at the address.

From the time that people moved in I began receiving complaints from residents living on either side of the house and from people nearby in Hollingbury Park Avenue about excessive noise nuisance of loud conversations, shouting and music often late at night and into the early hours of the morning. Constituents told me that they had complained to the residents to no avail and I made representations to the letting agents. This noise nuisance has continued over the last 9 months particularly affecting neighbours on either side and opposite who have young children.

I live in the house directly behind this property and while I have not been affected by noise nuisance in the same extreme way as those living on either side of the house I have been affected by noise from the frequent use by residents of the flat roof of the ground floor extension as an area for sitting outside and other activities including boxing and weightlifting in the late evening. That flat roofed extension was added as part of the work done in the summer of 2013 and not, as the applicant suggests in the application, as a permitted development in 2012 while the house was still in residential use. Because of the height of the extension and its closeness to the back wall of the property anyone on it overlooks my back garden and activities on it can be clearly seen and heard from my house.

COUNCILLOR REPRESENTATION

An application for a similar ground floor extension to 21 Hollingbury Park Avenue , the house next to this property, was turned down by the council last year suggesting that an application for such a ground floor extension to number 19 should also be unacceptable, particularly as it was not carried out as a permitted development as claimed.

Neighbours in Hollingbury Park Avenue have also complained to me about lack of provision at number 19 for household refuse and recycling which leads to an unsightly mess outside the front of the property which could be a danger to health. I have taken this matter up with CityClean.

Other complaints I have received have been about the intrusiveness of two very bright wall lights on 2 walls of the ground floor extension which cause a problem to next door neighbours and which also shine directly into the back of my house. These lights have often been left on all night.

From my own point of view as a resident, as well as the noise nuisance and overlooking and loss of privacy and overlooking already referred to as a result of the building of the ground floor extension last year, my house is also affected by a large rear dormer window added last summer to number 19 which looks directly into a rear bedroom of my house. This effect is exacerbated when the rear external lights are left on. Like the ground floor extension this dormer was added not, as the applicant claims, as a permitted right in 2012 when the house was a residential dwelling but as part of the work done in 2013 to convert the property into a 7 bedroom student house.

As I have already said there are inaccuracies in the application about when these extensions were added which leads to a false impression about the legal basis in terms of planning law on which they were added.

The application floor plan is also inaccurate because it shows the house as having only 5 bedrooms rather than the seven which it has been advertised as having and which, as the electoral register entry suggests, it actually does have.

I cannot say whether these inaccuracies are due to carelessness on the part of the applicant or an attempt to mislead.

I believe that this property is unsuitable for use as a house in multiple occupation of **any size**, not only because of the effect its use as an HMO since September has had on the immediate area but also because of the number of other HMOs already existing nearby in Hollingbury Park Avenue, Ditchling Road, Hollingbury Road and Hollingbury Terrace. (This Ward is one of those covered by the Council's Article 4 Directive.) I believe the property should be restored to use as a residential dwelling and would ask that the application should not be granted.

Yours sincerely,

Councillor Jeane Lepper

Hollingdean and Stanmer.

