

<b><u>No:</u></b>	<b>BH2020/03006</b>	<b><u>Ward:</u></b>	<b>Moulsecoomb And Bevendean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>166 Heath Hill Avenue Brighton BN2 4LS</b>		
<b><u>Proposal:</u></b>	<b>Change of use from existing 6no bedroom small house in multiple occupation (C4) to a 8no bedroom large house in multiple occupation (sui generis).</b>		
<b><u>Officer:</u></b>	Rebecca Smith, tel: 291075	<b><u>Valid Date:</u></b>	21.10.2020
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	16.12.2020
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd Road Brighton BN1 5PD	Lewis & Co Planning	2 Port Hall
<b><u>Applicant:</u></b>	Rivers Birtwell BN1 5PD	C/o Lewis & Co Planning	2 Port Hall Road Brighton

## 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>
Proposed Drawing	SUI.01	A	8 December 2020

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 large HMO (sui generis) hereby approved shall only be occupied by a maximum of eight (8) persons.

**Reason:** To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.

4. The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplan, drawing no SUI.01 Rev A, received on 8th December 2020 and shall be retained as such thereafter. The layout of the kitchen/living and dining rooms 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 policy QD27 of the Brighton & Hove Local Plan.

5. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.

6. The development hereby approved shall not be occupied until refuse and recycling storage facilities have been installed to the side or rear of the building 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 policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. The application site relates to a two-storey, semi-detached property with loft and garage conversions to provide additional habitable space. The application site is not listed, and does not lie within a conservation area.
- 2.2. The site is in the Moulsecoomb and Bevendean ward which has been subject to an Article 4 direction to restrict permitted development rights for changes of use from C3 (dwellinghouses) to C4 (small House in Multiple Occupation). This has been in effect in this ward since 5th April 2013 but as of 3rd June 2020 the Article 4 Direction has been extended citywide.
- 2.3. This application seeks planning permission for change of use from a six-person/six-bedroom small house in multiple occupation (HMO - Planning Use Class C4) to a large HMO (sui generis use, falling within no use class) accommodating eight people across eight bedrooms. The application does not include any external alterations.

- 2.4. During the consideration of the application, minor amendments were made to the proposed layout to improve circulation space and the overall quality of the communal areas.

### 3. RELEVANT HISTORY

- 3.1. **BH2019/00921** - Certificate of Lawfulness for the proposed erection of a hip-to-gable side roof extension. The proposal also incorporates the erection of a rear dormer, and the installation of 3no. roof lights to the front slope. **Approved 01.05.2019**
- 3.2. **BH2018/02491** - Application for approval of details reserved by condition 6 of application BH2018/00095. **Approved 20.09.2018.**
- 3.3. **BH2018/02316** - Application for removal of condition 5 of BH2018/00095 (Change of use from dwelling house (C3) to six bedroom small house in multiple occupation (C4) incorporating conversion of garage into habitable space) relating to removal of permitted development rights. **Refused 12.09.09.2018. Appeal Allowed.**
- 3.4. **BH2018/00095** - Change of use from dwelling house (C3) to six bedroom small house in multiple occupation (C4) incorporating conversion of garage into habitable space. **Approved 11.06.2018**

### 4. REPRESENTATIONS

- 4.1. **Three (3)** letters has been received objecting to the proposed development for the following reasons:
- Additional traffic and increased parking demand
  - Detrimental effect on property value
  - Noise/disruption from increased comings and goings
  - Overdevelopment
  - Exceeds capacity of the area for HMOs
  - Pressure on community services
  - Loss of homes suitable for families, sense of community, and provision of activities etc. in area
  - Loss of privacy
  - Increased litter
  - Enough student accommodation elsewhere
- 4.2. **Councillor Yates** has objected to the application. A copy of the representation is attached.

### 5. CONSULTATIONS

- 5.1. **Housing Strategy** : No comment received

- 5.2. **Planning Policy:** No comment
- 5.3. **Private Sector Housing:** No comment received
- 5.4. **Sustainable Transport:** No objection Additional trip generation from two bedrooms insignificant; seek Sheffield cycle stands within cycle store to improve useability. Note existing parking space on driveway may not suit all vehicles so some overspill carparking may occur, but sufficient parking on street to accommodate. No CPZ in area.

## 6. MATERIAL CONSIDERATIONS

- 6.1. 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
- 6.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - 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).
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications but any greater weight to be given to individual policies will need to await the outcome of the Regulation 19 consultation which ended on 30 October 2020.

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP9	Sustainable transport

CP21 Student housing and Housing in Multiple Occupation

Brighton and Hove Local Plan (retained policies March 2016):

TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development

Supplementary Planning Documents:

SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the principle of the change of use, the standard of accommodation to be provided, the effects of the proposed change of use on neighbours' amenity and transport matters.
- 8.2. Due to the ongoing coronavirus pandemic a physical site visit has not taken place during the assessment of this application. Instead a desktop assessment has been made, using up-to-date photographs of the site provided by the agent and street view imagery, which is considered sufficient to assess the acceptability of the proposal.

### **Principle of Change of Use:**

Existing layout:

- 8.3. The property is already in lawful use as a six-bedroom, six-person HMO (planning use C4)(planning permission BH2018/00095).
- 8.4. The current layout of the property is not as per the plans approved under BH2018/00095, but the deviation does not breach any conditions, including condition 3 which sought to safeguard the layout of the communal space within the house. The current layout, with two bedrooms in the roof, was possible after planning permission was granted on appeal against the removal of householder 'permitted development' rights at the property (ref. BH2018/02316).
- 8.5. This was then followed by a certificate of lawfulness application (BH2019/00921) which approved the installation of a rear dormer and front rooflights, which then allowed the formation of two bedrooms in the roof, and two larger bedrooms at first floor level instead of four.
- 8.6. This being the case, the current layout is therefore lawful in planning terms.

### Policy CP21:

- 8.7. The change of use from C4 HMO to a sui generis large HMO requires the application to be assessed against policy CP21 of City Plan Part 1, with clause (ii) of the policy specifically addressing the issue of changes of use to planning

use class C4, a mixed C3/C4 use or to a sui generis HMO, regardless of the existing use. The policy 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."*

- 8.8. A mapping exercise has been undertaken which indicates that there are 16 properties within a 50m radius of the application property, none 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%. It is appreciated that the application site is a HMO but for the purposes of the CP21 calculations the application site is always excluded and only the remaining residential properties within the 50m radius are used in the calculation.
- 8.9. Based on the existing percentage of neighbouring properties in HMO use, which is less than 10%, the principle of change of use to a three-bedroom HMO (C4) would not be in conflict with the aims of policy CP21, and it is not considered that the use would result in an overproliferation of HMOs in the area, or otherwise be detrimental to supporting a mixed and balanced community in the area.

**Standard of Accommodation:**

- 8.10. The existing layout comprises a kitchen/living/dining area for the six occupiers, a shower room and two bedrooms on the ground floor. On the first floor there are a further two bedrooms and a shower room. In the converted loft space, there are a further two bedrooms with a further shower room.
- 8.11. This proposal seeks to revise the internal layout to facilitate a further two bedrooms, creating eight in total. The new bedrooms would be created out of the three largest bedrooms on the ground and first floors. The smaller ground floor bedroom would be changed to provide further communal space to facilitate the additional occupiers. The loft arrangement would remain as existing.
- 8.12. The eight bedrooms would range in size from 7.5sqm to 9.44sqm, including, in the loft, space with a head height of greater than 1.5m from the internal floor level. Although not yet adopted policy, the Government's Nationally Described Space Standards (NDSS) do provide a useful point of reference for assessing new residential uses. Policy DM1 (which would be applicable to HMOs by requirement of policy DM7) of the draft City Plan Part Two proposes to adopt the NDSS. It is noted that the bedrooms would meet the minimum size indicated by the Space Standards for a single occupancy bedroom. Furthermore, having reviewed photographs of the existing layout, which includes some bedrooms which are unchanged by this proposal, a furnished layout (i.e. bed, desk, chair and storage furniture) can be achieved throughout that is not cramped or restrictive for an adult to live comfortably with adequate circulation space.

- 8.13. The revised bedroom layout would utilise existing windows within the property so each bedroom in this eight-bedroom proposal would have access to natural light, some outlook and natural ventilation. The communal areas would also have access to natural light, ventilation and outlook from existing windows.
- 8.14. The existing communal space would remain, with additional space provided by converting an existing ground floor bedroom into a dining area. The larger communal room would house the kitchen and living space, as is currently the case. The kitchen would remain in its current location and would provide sufficient space for the residents to cook and for the storage of food and cooking equipment.
- 8.15. During consideration of this application, the indicative layout shown was altered. Initially a 'TV room' was proposed in the smaller communal area, and a dining room in the larger room, but this was considered cramped for eight people, without adequate circulation space when furnished. In response to concerns raised, the areas were swapped, with the dining area now occupying the smaller space. This is considered to allow more circulation space, particularly as it is open plan. The revised layout is considered to provide a good standard of accommodation for future occupiers of this large HMO.
- 8.16. This assessment has been made on the basis that the property would be used as an eight-bedroom, eight person HMO. A condition is recommended restricting the occupancy to eight people. This is because none of the bedrooms are large enough to support double occupancy and the communal areas (kitchen/living/dining) would be very cramped for more than eight residents.
- 8.17. Overall, the property would provide a good standard of accommodation for future occupiers of the development in accordance with paragraph 127f of the NPPF, and Local Plan policies QD27 and HO5 of the Brighton and Hove Local Plan

**Impact on Amenity:**

- 8.18. Policy QD27 of the Brighton & Hove Local Plan 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.
- 8.19. The proposed change of use from a six-person small HMO to an eight-bedroom HMO (sui generis) would create more comings and goings from the property as the number of occupants would increase. However, given the layout of the property and the location of the front door and communal areas, which are sited away from the attached neighbouring dwelling, it is not considered that the additional disturbance created by two further residents would amount to such substantial adverse harm to neighbouring properties to warrant refusal of the application.
- 8.20. 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. 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.

- 8.21. Although HMO uses can have a negative impact on neighbours and concerns are raised in relation to noise and other forms of disturbance, there is soundproofing on the party wall of this semi-detached property which should afford the neighbours some protection for the more intensive use. It is also noted that the communal areas are sited away from the part wall of this semi-detached property.
- 8.22. It is noted that no Environmental Health complaints in relation to noise or other disturbance from this property are recorded by the Council. Furthermore, a HMO of this size would still require licensing by the Council's Private Sector Housing team and thus be required to comply with management standards amongst other requirements. Finally, the granting of this planning permission would not prohibit the Environmental Health team taking action against 'statutory nuisance' under the Environmental Protection Act 1990 if this was required in the future.
- 8.23. It is noted that the representation from Councillor Yates highlights a recent appeal decision (APP/Q1445/W/20/3249592, relating to application BH2019/03433 at 95 Heath Hill Avenue) which held that high concentrations of HMOs do have an effect on the mix and balance of the community, and that this effect includes matters such as litter and noise.
- 8.24. However, there are differences between the appeal quoted and this application, most notably that this HMO is located within a 50m radius where there are no other HMOs. Furthermore, another recent appeal decision (APP/Q1445/W/20/3254632 relating to application BH2019/01490 at 64 Islingword Road) concluded that although residents may perceive issues such as litter, noise and antisocial behaviour are a direct result of the HMO use, *"these are all functions of the way a particular residents behave rather than being inherently dependant on the status of the property as a dwellinghouse or HMO"*. Therefore, it would not be appropriate to make assumptions about the future behaviour of individuals who may reside in the property..
- 8.25. Accordingly, the increase in occupation of this HMO and its change from small HMO use (C4) to large HMO (sui generis) is not likely to have a significant impact on the amenity of the local area that would warrant refusal of the application on planning grounds.

**Sustainable Transport:**

- 8.26. The site is not located within a Controlled Parking Zone (CPZ), suggesting that the area is not under parking stress and the Highway Officer has noted that any parking need generated by the property could be accommodated on street.
- 8.27. In terms of cycle parking the planning statement and the submitted drawings detail an existing store for use by the current residents, providing storage five cycles. The Highways Officer has specified that a Sheffield stand is provided in the cycle store to improve usability, but this is not considered to warrant a

condition as it would not materially alter the provision on site which is already covered and secure.

**Conclusion:**

- 8.28. This is a site where there are no other HMOs within a 50m radius, thereby complying with policy CP21 which supports mixed communities. The proposed standard of accommodation for the eight occupiers is considered acceptable, and the likely impact on neighbouring amenity resulting from two additional residents would not be sufficiently harmful to warrant refusal. No significant transport concerns have been identified.
- 8.29. Accordingly, the application is recommended for approval, subject to conditions restricting any of the communal area being lost to bedrooms; the overall number of occupiers to eight; and requiring the retention of the cycle parking, and refuse/recycling storage.

9. **EQUALITIES**  
None identified

