

<b><u>No:</u></b>	<b>BH2020/03446</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>63 Newick Road Brighton BN1 9JJ</b>		
<b><u>Proposal:</u></b>	<b>Change of use from dwelling house (C3) to six bedroom small house in multiple occupation (C4) incorporating erection of single storey rear extension, secure cycle storage and associated alterations.</b>		
<b><u>Officer:</u></b>	Rebecca Smith, tel: 291075	<b><u>Valid Date:</u></b>	25.11.2020
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	20.01.2021
<b><u>Listed Building Grade:</u></b>	N/A	<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>	Rivers Birtwell 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>
Proposed Drawing	297/COU.01	Rev A	20 January 2021

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 development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplan, drawing no 297/COU.01 Rev A, received on 20th January 2021 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.

4. 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.

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 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.

6. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

7. A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

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.

1. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.

## 2. SITE LOCATION

- 2.1. The application site relates to a two-storey semi-detached property on the northern side of Newick Road. The application site is not listed, and it does not lie within a conservation area.

- 2.2. The site lies within 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.

### **3. RELEVANT HISTORY**

- 3.1. There is currently an open enforcement case relating to this property.

### **4. APPLICATION DESCRIPTION**

- 4.1. This application seeks planning permission for the change of use from a dwellinghouse (C3) to a small House in Multiple Occupation (C4) with 6-bedrooms/persons.
- 4.2. During consideration of the application, minor amendments to the drawings and planning statement have been received. The planning statement was updated to clarify that off-street parking is not proposed and the plans were amended to move the cycle store to the rear of the property.

### **5. REPRESENTATIONS**

- 5.1. **Two (2)** letters has been received objecting to the proposed development for the following reasons:
- Additional traffic
  - Increase in noise
  - Overshadowing
  - Extension would be too close to the boundary
  - Loss of natural light
  - Increased parking demand
  - Exceeds capacity of the area for HMOs
  - Decline in community services and activities aimed at families
  - Increased comings and goings at the property causing disruption for existing residents
  - No community benefit from proposal
  - Further contributes to a lost sense of community
  - There is enough student accommodation elsewhere
  - Tenants would not respect the area and would change frequently
- 5.2. **Councillor Yates** has objected to the application. A copy of the representation is attached.

### **6. CONSULTATIONS**

- 6.1. **Housing Strategy:** No comment received
- 6.2. **Private Sector Housing:** No objection

Should this planning application be successful a HMO licence would be required for this use.

6.3. **Sustainable Transport - Verbal Comment:** No objection

No objection to the increase in trip generation resulting from the change of use proposed. The additional trip generation is insignificant and would not warrant refusal on this basis. The Local Highway Authority (LHA) would like to request that the proposed cycle parking is made more secure but the number of spaces (6 spaces) exceeds the minimum required.

- 6.4. The planning statement stated that parking is possible on the driveway, however this may not be suitable for all vehicles due to its size. Furthermore, there are concerns that the property does not have adequate visibility to facilitate a driveway or that the drop kerb is appropriate. Some overspill car parking may therefore occur. However, there appears to be available parking on-street which could accommodate overspill marking from the additional occupiers. The site is within Controlled Parking Zone (CPZ) D which is only operation on match days rather than all the time.

## 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 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).

- 7.3. 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.

## 8. 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
CP10	Biodiversity
CP12	Urban Design
CP21	Student housing and Housing in Multiple Occupation

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

HO5	Provision of private amenity space in residential development
QD14	Extensions and alterations
QD27	Protection of amenity
SU9	Pollution and nuisance control
SU10	Noise Nuisance
TR14	Cycle access and parking

Supplementary Planning Documents:

SPD11	Nature Conservation and Development
SPD14	Parking Standards

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of the change of use, the design and appearance of the proposed extension, the standard of accommodation to be provided, the effects of the proposed change of use on neighbours' amenity and transport matters.
- 9.2. 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.
- 9.3. It is noted that there is an ongoing enforcement investigation at this property and that the neighbour occupants suggest multiple occupancy use. The use and alteration applied for here have not commenced, furthermore it is noted that the applicant does not currently own the property.

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

- 9.4. The change of use from dwellinghouse (C3) to small HMO (C4) does require the application to be assessed against policy CP21. Policy CP21 (ii) 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."*

9.5. A mapping exercise has been undertaken which indicates that there are 24 properties within a 50m radius of the application property, one of which has been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 4.16%. 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.

9.6. Based on the existing percentage of neighbouring properties in HMO use, which is less than 10%, the principle of change of use to a six-bedroom HMO (C4) would not be in conflict with the aims of policy CP21.

**Design and Appearance:**

9.7. The proposal includes a single storey extension to the rear and alterations to the fenestration. The alterations to the fenestration are minor and do not alter the appearance of the dwelling in a harmful way. The alterations include the loss of the small middle window at ground floor level and the loss of the windows serving the existing bathroom and separate toilet and replacement with a single larger window to serve the proposed bedroom. It is also noted that the window openings to the rear would also be larger, again this is not harmful to the overall appearance.

9.8. In terms of the proposed rear extension it would be single storey with the walls finished in render to match the existing, the dummy pitch roof would be clad in concrete tile and the floor to ceiling window and separate door would be upvc to match the existing. The proposed extension would be sited away from the boundary with the attached neighbour and be approximately 3.5m deep and 6.3m wide. The height of the extension would be approximately 2.85m to the eaves and 3.4m to the highest point.

9.9. Overall, the proposed extension would relate well to the existing house and would not unduly dominate the plot causing harm to the character and appearance of the area. The alterations to the fenestration are also acceptable. The proposed extension and alterations would therefore be in accordance with policies QD14 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.

**Standard of Accommodation:**

9.10. The existing layout comprises of living room, kitchen and bedroom on the ground floor and three bedrooms on the first floor with a bathroom and separate toilet.

- 9.11. This proposal seeks to revise the internal layout to facilitate the change of use, this includes relocating the stairs and all internal walls. The revised layout would have the communal space on the ground floor; kitchen/dining where the bedroom is currently and a living room in the proposed extension. Two bedrooms would occupy the other half of the ground floor and there would also be a shower room on the ground floor. On the first floor the layout would comprise of 4 bedrooms and a further shower room.
- 9.12. The six bedrooms would range in size from 7.52sqm to 7.58sqm. 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 and provide enough circulation space once fully furnished (bed, desk, chair and storage furniture).
- 9.13. The revised bedroom layout would utilise some existing window openings and make some minor alterations to the fenestration at the rear. The alterations facilitate good-sized windows for each bedroom. Each bedroom 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 the existing window in the front elevation and the new fenestration in the extension.
- 9.14. In terms of communal space, the kitchen/diner would be located away from the party wall with no. 65 and lead out to the rear extension which would provide living space and access to the rear garden. An indicative furnished layout has been provided to indicate how the space could accommodate a kitchen, space for dining table and chairs and living area capable of providing comfortable seating for 6 occupants.
- 9.15. The kitchen/diner (15.4sqm) would provide sufficient space for the residents to cook, dine and for the storage of food and cooking equipment. The living room (18sqm) located towards the rear of the property in the proposed extension would provide space for residents to relax. It is noted that the space facilitates the only access from the house to the garden, but this does not compromise the usability of the space once furnished.
- 9.16. This assessment has been made on the property as a six-bedroom, six- person HMO. A condition is not recommended to restrict the occupancy to six people as an increase beyond six would require planning permission. It is also noted that none of the bedrooms are large enough to support double occupancy as it would be harmful to the amenity of future occupiers and therefore fail to accord with 127F of the NPPF and Local Plan policy QD27.
- 9.17. In terms of outdoor space, the property has a large garden to the rear is considered to be of suitable size as outdoor amenity space for the proposed 6 occupiers in accordance with policy HO5 which requires outdoor space to be proportionate to the size of the residential development.

- 9.18. Overall, the property would provide a good standard of accommodation for future occupiers of the development in accordance with Local Plan polices QD27 and HO5 of the Brighton and Hove Local Plan

**Impact on Amenity:**

- 9.19. 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.
- 9.20. The proposed change of use from a dwellinghouse (C3) to 6-person small HMO may create more comings and goings from the property and in a different pattern to the existing dwellinghouse use. However, given the layout of the property and the location of the front door and communal areas, which are sited away from the attached dwelling. 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.
- 9.21. 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.
- 9.22. Although HMO uses can have a negative impact on neighbours and concerns are raised in relation to noise and other forms of disturbance, the plans state that there is soundproofing to 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.
- 9.23. 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. Furthermore, 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.
- 9.24. It is noted that the representation from Councillor Yates highlights a recent appeal decision (APP/Q1445/W/20/3249592, relating to application BH2019/03433at 95 Heath Hill Avenue) which held that high concentrations of HMOs do have an effect on the mix and balance the community and that this effect includes matters such as litter and noise. There are differences between the appeal quoted and this application most notably that this HMO would be located within a 50m radius where there is just one HMO at present. Furthermore, another recent appeal decision (APP/Q1445/W/20/3254632 relating to application BH2019/01490 at 64 Islingword Road) which concluded that although residents may perceive issues like 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.

- 9.25. Finally, in terms of the rear extension proposed it is single storey in height and sited away from the boundary with the neighbour. The proposed extension would not cause significant harm to the neighbouring occupiers in term of loss of light, overshadowing or being overbearing owing to its positioning and overall design.
- 9.26. Accordingly, the proposed change of use and extension 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:**

- 9.27. The site is located within Controlled Parking Zone (CPZ) D, which is only operational on match days. This suggests 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.
- 9.28. As mentioned above the planning statement to support the proposal was amended to clarify that the applicant is not seeking to provide off street parking on the drive. The Highway Officer was concerned that to utilise the paved front as a parking space could be problematic in terms of visibility splays and the lack of a dedicated vehicle crossover. Now that the position has been clarified this is not of concern.
- 9.29. In terms of cycle parking the planning statement and the submitted drawings initially detailed a purpose-built cycle store to the front which was of concern to the Highway Officer because it was open and not very secure. It was also felt that such a structure would cause harm to the appearance of the dwelling and the wider streetscene. The plans were therefore amended to show the cycle store (providing 6 spaces) in the rear garden. The cycle store would now be out of public view, be more secure by virtue of its location in the rear garden and would not affect the usability of the outside space for the proposed residents. Access to the proposed cycle store would be via the side of the house. A condition is proposed to ensure that the cycle storage is constructed and retained in accordance with the approved plans.
- 9.30. Therefore, the development would be acceptable in relation to transport matters.

**Biodiversity:**

- 9.31. The Council has been seeking to improve ecological outcomes within the city. Since November 2019 the Council has been securing minor amendments to approved schemes to increase biodiversity contributions. A condition will therefore be added to require a bee brick to be incorporated into the build and improve biodiversity outcomes in line with policy CP10 Biodiversity and SPD11 Nature Conservation and Development.

**Conclusion:**

- 9.32. Overall, this is a site whereby the HMO percentage (4.16%) complies with policy CP21 and the proposed standard of accommodation for the proposed 6 occupiers is acceptable. The likely amenity impact of a small HMO has been assessed and not been found to be significantly and demonstrably harmful to warrant refusal and no significant transport concerns have been identified.
- 9.33. Accordingly, the application is recommended for approval, however It is considered necessary to attach a condition restricting any of the communal area being lost to bedrooms. It is also considered necessary to require the implementation and retention of the cycle parking on the drawings proposed use and to require that refuse and recycling storage is provided on site. This is to ensure that the site provides facilities to promote sustainable travel at all times and to ensure that there is adequate provision of rubbish and recycling facilities at all times for the proposed use.

**10. EQUALITIES**  
None identified