

<u>No:</u>	BH2021/04478	<u>Ward:</u>	Hanover And Elm Grove Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	141 Elm Grove Brighton BN2 3ES		
<u>Proposal:</u>	Application to vary conditions 1, 2 and 3 of planning permission BH2021/03176 to permit conversion of lower ground floor living room into sixth bedroom within house of multiple occupation.		
<u>Officer:</u>	Charlotte Bush, tel: 292193	<u>Valid Date:</u>	21.12.2021
<u>Con Area:</u>	None	<u>Expiry Date:</u>	15.02.2022
<u>Listed Building Grade:</u>	<u>EOT:</u>		
<u>Agent:</u>	DJM Town Planning 16 Fairdene Southwick Brighton BN42 4QN		
<u>Applicant:</u>	Mishbec Ltd C/O DJM Town Planning 16 Fairdene Southwick BN42 4QN		

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.

Plan Type	Reference	Version	Date Received
Location and block plan	2021-05-P-01	D	21 December 2021
Proposed Drawing	2021-05-HMO-08		21 December 2021
Proposed Drawing	2021-05-P-07	D	21 December 2021
Proposed Drawing	2021-05-P-13		21 December 2021

2. The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplans, drawing no 2021-05-P-07 D received on the 21 December 2021, and shall be retained as such thereafter.

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

3. The HMO unit hereby approved shall only be occupied by a maximum of six (6) persons.

Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 and DM20 of the Brighton & Hove Local Plan.

4. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have

been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development 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 and SPD14: Parking Standards.

5. At least one 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.

6. Access to the flat roof over the extension hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

7. The external finishes of the extensions to the existing building 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.

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. 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 relates to a two storey (plus basement) terraced house, which until recently, had a rooflight on the front elevation, and two rooflights on the rear. Following recent works, allowed under a 2021 planning permission, the property now comprises a rear lower ground floor extension and a rear dormer window.

- 2.2. The site is located on the north side of Elm Grove, between Bonchurch Road and Whippingham Road, opposite the junction with Lynton Street.
- 2.3. Elm Grove is a prominently residential area with good transport links, and is within walking distance of local shops and facilities.
- 2.4. There is an Article Four Direction in place restricting the conversion of single dwellinghouses to houses in multiple occupation (HMOs)(planning use class C4, or sui generis (outside of a use class)).

3. RELEVANT HISTORY

- 3.1. **BH2022/00469** - Application for Approval of Details reserved by Condition 4 (Secure Cycle Parking) of application BH2021/03176. Under consideration.
- 3.2. **BH2021/03176** - Change of use from residential dwelling (C3) to House in Multiple Occupation (C4) and erection of rear dormer and rear extension (part retrospective). Approved 02/12/2021
- 3.3. **BH2021/02447** - Certificate of lawfulness for proposed rear dormer. Approved 23/08/2021
- 3.4. **BH2021/02404** - Erection of a single storey rear extension, with associated works. Approved 20/08/2021
- 3.5. **BH2015/02962** - Conversion of single dwelling into 2no flats. Refused 19/01/2016
- 3.6. **BH2014/03885** - Conversion of existing single dwelling into 3no flats. Refused 17/07/2015

4. APPLICATION DESCRIPTION

- 4.1. This application seeks to amend conditions 1, 2 and 3 attached to planning permission BH2021/03176 which allowed the 'change of use from a residential dwelling (C3) to House in Multiple Occupation (C4 use class) and for the erection of rear dormer and rear extension (part retrospective).' This permission restricted occupancy of the HMO to up to five people.
- 4.2. The applicant is now seeking to amend the drawings approved under condition 1; to change the internal layout of the building, required by condition 2 to be retained, so that the lower ground floor lounge is converted into a bedroom; and to allow an increase in the maximum occupation from five persons to six (condition 3).

5. REPRESENTATIONS

- 5.1. **Three (3)** letters have been received objecting to the proposed development for the following reasons:
- Too many HMOs in the area
 - Noise pollution
 - Detrimental to house prices
 - Detrimental to the quality of life of existing residents
 - Overdevelopment
 - Lack of facilities
 - Not enough space for bikes and rubbish
 - Additional traffic and additional impact on parking
 - Subverting the planning process
- 5.2. A letter of representation has been received from Councillor Powell **objecting** to the proposed development. A copy of the representation is attached to the report.

6. CONSULTATIONS

- 6.1. **Environmental Health:** No objection
Have looked at the acoustic report submitted with the above application and it states that testing shows that the wall structure exceeds the relevant criterion. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.
- 6.2. [Officer clarification: the 'relevant criterion' referred to in this response is noted in the submitted Acoustic Report. The noise limits used in this are those specified in a condition imposed by a Planning Inspector in an appeal decision for a HMO at 55 Centurion Road, and by Building Regulations, namely 45dB DnTw +Ctr].
- 6.3. **Planning Policy:** No comment
No comment required
- 6.4. **Private Sector Housing:** No objection
Should the application be approved then the applicant will need to apply for an HMO Licence before the property is occupied.
- 6.5. **Transport:** No objection Verbal comments.
The proposed scheme is unlikely to generate significantly more trips or on street parking. A HMO of this size requires cycle stands for a minimum of three bikes which should be secured by condition.

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 One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing Delivery
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP14	Housing Density
CP19	Housing mix
CP21	Student housing and Housing in Multiple Occupation

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

TR7	Safe Development
TR14	Cycle access and parking
SU10	Noise Nuisance
QD14	Extensions and alterations
QD27	Protection of amenity

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part Two 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 23rd April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM1	Housing Quality, Choice and Mix
DM7	Houses in Multiple Occupation (HMOs)
DM20	Protection of Amenity
DM33	Safe, Sustainable and Active Travel
DM36	Parking and Servicing

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD11	Nature Conservation & Design
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations relating to this application are the acceptability of the living accommodation, and the impact on neighbouring residents.

Background

- 9.2. Planning permission was granted by the Planning Committee in December 2021 for the change of use of the property from a dwelling (use class C3) to a House in Multiple Occupation (HMO, use class C4), along with the erection of a rear dormer and rear extension (ref. BH2021/03176). The principle of the development has therefore been agreed, and the Local Planning Authority considered the scheme to be acceptable in all regards, subject to various conditions.
- 9.3. The considerations to be taken into account in this application therefore solely relate to the changes to conditions 1, 2 and 3 of the previous permission which state:
- **“Condition 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.
 - **Condition 2:** The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplans, drawing no 2021-05-P07 REV B received on the 28/10/2021, and shall be retained as such thereafter. The layout 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.
 - **Condition 3:** The HMO unit hereby approved shall only be occupied by a maximum of five (5) persons.
Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.”
- 9.4. The plans were changed during the consideration of the original application (ref. BH2021/03176) to alter the front lower-ground floor room from a bedroom to a lounge as it was considered that this room would have limited access to natural light and outlook, creating a dark and oppressive living space. It was also considered that this the proposed bedroom would also have been subject to noise and disturbance from people accessing and using the communal space. Conditions 1 - 3 were therefore imposed to secure the layout and prevent the use of the room as a bedroom.

- 9.5. This application seeks to revert the room back into a bedroom, as originally proposed.

Standard of Accommodation

- 9.6. The proposed extra bedroom is located at the front of the property, at lower ground floor level and therefore below the associated pavement level. To support this application, the applicant has provided an internal daylight report. The daylight study is undertaken in accordance with the new British Standard for Daylight in Building BS EN 17037:2018.
- 9.7. The submitted report finds that lux levels in the front half of the bedroom are between 500-2500 lux and the rear half of the room 100-500 lux. No area of the bedroom falls below the 100 lux required by British Standard for Daylight in Building for bedrooms. On this basis, daylight levels for the bedroom are considered acceptable.
- 9.8. An Acoustic Report has also been submitted as part of this application. After testing, the report concludes that the sound insulation between the communal space and the proposed bedroom achieved 45dB DnTw +Ctr (sound insulation). The Environmental Health Officer has confirmed that this is sufficient sound proofing.
- 9.9. The outlook, which looks out towards the external staircase due to the siting below pavement level, is not ideal, but is not considered reason enough on its own to warrant the refusal of the application.
- 9.10. The remaining communal space would measure 27.5sqm which exceeds the 4sqm per person required by policy DM7 of the emerging City Plan Part 2 which is given significant weight. As such, there is no objection to the loss of the front room as communal space.
- 9.11. On this basis, the proposed amendments have been shown to be acceptable in terms of the standard of accommodation provided.

Impact on Neighbouring Residents

- 9.12. The increase in occupancy from 5 to 6 persons retains the HMO in Use Class C4. The provision of a C4 HMO within this location has already been consented. As such, no objection can be raised on that basis and policy CP21 cannot be reapplied. It is not considered that the addition of a sixth bedroom to the HMO would cause significant additional noise, behavioural or waste-related issues.
- 9.13. The proposal is not considered to result in any significant uplift in trip generation or parking.
- 9.14. This application has therefore addressed the concerns raised by the Officer in application BH2021/03176 in regards to the lower ground floor front room being used as a bedroom, and this application to amend conditions 1 -3 is subsequently recommended for approval.

10. CONCLUSION

- 10.1. The information submitted in support of this application has adequately demonstrated that the conversion of the lower ground floor lounge into a bedroom would not result in a poor standard of living accommodation for the occupant of the room, or for other occupants of the building. There would be no significant impact on neighbouring amenity or sustainable transport. The proposed scheme is therefore recommended for approval.

11. CLIMATE CHANGE/BIODIVERSITY

- 11.1. The proposal would maximise the use of the property as a C4 HMO, making a more efficient use of the site in a sustainable location.

12. EQUALITIES

None identified.