

<b><u>No:</u></b>	<b>BH2017/00201</b>	<b><u>Ward:</u></b>	<b>Goldsmid Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>14 Eaton Gardens Hove BN3 3TP</b>		
<b><u>Proposal:</u></b>	<b>Change of Use from Nursing Home (C2) to 15no bedroom House in Multiple Occupation (Sui generis) incorporating internal alterations to layout and rationalising of existing pipework (Part retrospective)</b>		
<b><u>Officer:</u></b>	Emily Stanbridge, 292359	tel:	<b><u>Valid Date:</u></b> 30.01.2017
<b><u>Con Area:</u></b>	Willett Estate	<b><u>Expiry Date:</u></b>	27.03.2017
<b><u>Listed Building Grade:</u></b>	Listed	<b><u>EOT:</u></b>	
	Building Grade II		
<b><u>Agent:</u></b>	Mr Simon Bareham Brighton BN1 5PD	Lewis & Co Planning	2 Port Hall Road
<b><u>Applicant:</u></b>	Mr Jogi Vig BN1 5PD	C/O Lewis and 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>
Location Plan			20 January 2017
Block Plan			20 January 2017
Floor Plans Proposed	427-21 F		30 November 2017
Elevations Proposed	427-23 B		8 February 2018

2. The development hereby approved shall be implemented in accordance with the proposed layout plan received 30th November 2017 and shall be retained as such thereafter. The rooms marked as kitchen and dining room shall be retained as communal space and none of these rooms shall be used as bedrooms at any time.  
**Reason:** To ensure a suitable standard of accommodation and sufficient communal space for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.

3. The development hereby approved shall only be occupied by a maximum of Twenty 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. Within 3 months of the approval hereby given a Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This should include details relating to site management, behaviour and conduct of future occupiers, details of how parking will be allocated and enforced and waste/refuse management.  
**Reason:** To safeguard the amenities of occupiers of the adjoining properties, to ensure parking provisions are effectively managed and to comply with SU10 and QD27 of the Brighton and Hove Local Plan, Policy CP9 of the Brighton and Hove City Plan Part One and SPD14.
5. All new and replacement rainwater goods, soil and other waste pipes shall be in cast iron and shall be painted black and retained as such thereafter.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE1 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
6. No cables, wires, aerials, pipework, meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.  
**Reason:** To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
7. The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.  
**Reason:** This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan, CP9 of the Brighton and Hove City Plan Part One and SPD14.
8. Prior to first occupation of the development hereby permitted, details of the car park layout shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme 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 the development provides safe and efficient parking arrangements, provides for the needs of pedestrians and cyclists and to comply with policies CP9 of the Brighton & Hove City Plan Part One, TR7 and TR14 of the Brighton & Hove Local Plan and SPD14.

9. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall 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.
10. Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local 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. The applicant is advised that the scheme required to be submitted by Condition 7 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The building is a late Victorian detached villa which is Grade II listed and falls within the Willett Estate Conservation Area. The building has been subject to a number of internal and external alterations.
- 2.2 A site visit undertaken in March 2017 revealed that a substantial amount of historic fabric remains in the building including original doors, cornices, architraves, stained glass windows, staircase, handrails and balustrades and fireplaces. Unfortunately, some historic fabric has been lost to previous alterations.
- 2.3 This application seeks planning permission to convert the property to a large House in Multiple Occupation facilitated through a number of works to the internal layout of this Listed Building. The internal works proposed seek to remove a number of unauthorised alterations that have taken place within the property since 2005. The property was previously occupied as a Care Home

until 2010 and it was apparent during the officer site visit in March 2017 that a number of individuals currently occupy the property. As such this application is part-retrospective.

### 3. RELEVANT HISTORY

**BH2017/00202:** Change of Use from Nursing Home (C2) to 15no bedroom House in Multiple Occupation (Sui generis) incorporating internal alterations to layout. (Part retrospective) Under Consideration.

**BH2010/02768:** Internal alterations. (Retrospective) Refused November 2010.

**BH2006/00491:** Internal alterations and installation of access ramp to front elevation. (Part Retrospective) Refused April 2006.

**BH2005/06553:** Internal alterations and replacement access ramp. Refused January 2006.

**BH2002/02922/FP:** Change of use from residential care home (C2) to a hostel for the homeless (Sui Generis). Refused February 2003.

### 4. REPRESENTATIONS

Seventeen (17) letters have been received objecting to the proposed development for the following reasons:

- There is no detail of the residents to be housed
- Additional noise disturbance from future occupiers
- Additional parking pressures
- The proposed change of use is inappropriate for the area
- Additional rubbish on the street as a result of the number of residents
- Lack of detail of how the HMO will be used
- The change of use will impact upon the conservation area
- Potential increase in antisocial behaviour
- Inadequate parking spaces
- The use of the building as a care home should take priority

### 5. CONSULTATIONS

5.1 **Environmental Health:** No objection

5.2 **Heritage:** (Comments following amendments 09.02.2018)

The proposal is for internal alterations with the only external works being additional rainwater goods to facilitate the new layout and use. It should be noted that there have been ongoing enforcement issues with the site and the current application has been an opportunity to rectify these unauthorized works and seek improvements to the listed building.

The revision F amended plans propose the removal of all of the existing fire lobbies which divide the main rooms of the house into irregular and ill-proportioned room sizes. Ensuite rooms within larger rooms are also proposed to be removed to reinstate the principal room proportions on the ground and first floors. The rest of the floor plan has been rationalised to remove modern partition walls and ill-proportioned spaces. Some concessions have been made around the floor plan due to the centrally located lift and the historic side extension to the south.

The proposal also includes the reinstatement or revealing of historic fabric such as the fireplace in the entrance foyer and the removal of partition walls blocking in part of the main stair. This is welcomed and will help to reinstate the special interest of the building. A condition will be included on the consent for details of the architectural features to be revealed.

The proposed alterations to the external elevations consist of the rationalisation of the rainwater goods. Both the north and south elevations of the listed building are highly visible from the public realm due to the setbacks of the neighbouring properties. The most recent amended elevations (revision B) show a significant reduction in rainwater goods on all elevations which is a much welcomed improvement.

Contrary to the initial proposed plans submitted for the site, the most recent amendments remove the unauthorized works and reinstate some of the original architectural features and layout of the listed building. The proposal meets the requirements of the NPPF and local plan policies HE1 and HE4 and the associated guidance.

**5.3 Adult Social Care: No objection**

Commissioners would be reluctant to lose a Nursing home in the area but it is understood that this listed property has made a number of applications for adaptations to the building which have been declined so the building is felt not fit for purpose. We do not require additional care homes without nursing at this time. Therefore no objection to the change of use of the property is had.

**5.4 Sustainable Transport: No objection subject to condition**

The Highway Authority has no objections to the application subject to inclusion of the following necessary conditions:

- Details of the car park layout
- Car park management plan
- Removal of entitlement for parking permits
- Cycle parking scheme

**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);

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 One

SS1 Presumption in Favour of Sustainable Development  
CP1 Housing delivery  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP12 Urban design  
CP15 Heritage  
CP19 Housing mix  
CP21 Student housing and Housing in Multiple Occupation

#### Brighton & 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  
HO13 Accessible housing and lifetime homes  
HE1 Listed buildings  
HE6 Development within or affecting the setting of conservation areas

#### Supplementary Planning Documents:

SPD09 Architectural Features  
SPD14 Parking Standards

## 8. **CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relates to the loss of the existing care home and the change of use of the property to a House in Multiple Occupation, the impact of the external works on the character and appearance of the property, the impact of the development upon the amenities

of neighbouring properties and the standard of accommodation provided in addition to highway issues.

## 8.2 Principle of development:

### Loss of existing Care Home

The site's permitted use is as a nursing/care home (C2) and as such the proposals must comply with Policy HO11 which states:

'Planning permission will not be granted for proposals involving the loss of residential care and /or nursing homes which comply with, or are realistically capable of reaching, the respective standards set out for residential care / nursing homes.'

The building has not been used as a care home since 2010 following the refusal of a number of planning applications. In 2006 a Listed Building consent application for the installation of an access ramp and internal alterations to the property to facilitate ensuite facilities for residents was refused. This application determined that the proposed alterations would cause significant harm to the historic features of this listed building.

A second application was submitted in 2010 for internal alterations to the building to create en-suite bathrooms for each bedroom. This application was refused on the grounds that the proposed partitions were inappropriately positioned and that the resultant rooms were irregularly shaped and poorly proportioned. As such the proposal was considered contrary to HE1 and HE4 of the Brighton and Hove Local Plan. This decision was upheld at appeal by the Planning Inspectorate. The current application seeks to remove these unauthorised works.

As a result of the refusal of the previous applications, the residential home is unable to provide disabled access from street level or access to en-suite facilities for residents and as such the home is not considered fit for purpose. As such there is no objection to the change of use of the property.

### Use of the property as an HMO

The proposal seeks consent for the part-retrospective change of use from a care home (C2) to a large House in multiple occupation (Sui Generis). The application would allow for the provision of 15 bedrooms with communal kitchen/dining and bathroom facilities across 4 floors. During the officer site visit in March 2017 it was noted that a number of the existing bedrooms are occupied by unrelated individuals. The application is therefore part-retrospective.

Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to either 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 use 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.

A mapping exercise has taken place which indicates that there are 149 neighbouring properties within a 50m radius of the application property; 1 other property has been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is therefore 0.67%.

Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a Sui Generis HMO would be in accordance with policy CP21.

### 8.3 **Design and Appearance:**

The only external alterations associated with the change of use of the property are the rationalisation of the existing pipework to the side and rear elevations of the property.

Both the north and south elevations of the listed building are highly visible from the public realm due to the setbacks of the neighbouring properties. The most recent amended elevations (revision B) show a significant reduction in rainwater goods on all elevations which is a much welcomed improvement. The proposal is therefore in accordance with Policy HE1 of the Local Plan and CP12 of the Brighton and Hove City Plan Part One.

### 8.4 **Standard of accommodation:**

The original application sought to provide 17 bedrooms with communal facilities. However amendments have been received during the lifetime of the application to provide more appropriate communal living space which has resulted in the loss of two bedrooms. As such the application now provides 15 bedrooms.

The proposal provides living space across four floors with shared facilities on each floor. The proposal seeks to remove all unauthorised en-suite bathrooms and as such none of the proposed bedrooms have access to private bathroom facilities (with the exception of Bedroom 14 located at second floor level).

At lower ground floor level two of the proposed bedrooms have access to private kitchen areas whilst the two other bedrooms located to the north of the lower ground floor share access to communal kitchen and dining rooms facilities at ground floor level. This shared open plan kitchen/dining area provides 48sqm of floor space to serve 5 bedrooms across both the lower ground and ground



floor levels. The open plan layout proposed is considered sufficient to accommodate the number of future occupiers.

At first floor the proposal comprises of 5 bedrooms with shared bathroom facilities and an open plan kitchen/dining area providing 26sqm of communal floor space. At second floor level the proposal comprises of 3 bedrooms, two shared bathrooms and a shared kitchen/dining room.

The layout of the proposed shared kitchen/dining areas is such that they could reasonably accommodate the required furniture to allow future occupiers to cook and eat meals.

Each habitable room proposed benefits from acceptable levels of light, outlook and ventilation leading to an acceptable standard of living for future occupiers. Furthermore each bedroom proposed measures above the minimum standards contained within the Governments National Space Standards and feature sufficient circulation space and useable floor area to allow for the placing of necessary furniture. As such the standard of accommodation proposed is deemed acceptable and is in accordance with Policy QD27.

#### **8.5 Impact on Amenity:**

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.

A change to a Sui Generis HMO would result in a more intensive use of the property and a greater impact on the immediate and surrounding area.

It is acknowledged that the level of activity that would occur from unconnected adults living together would be more intensive when compared to a typical family and that this may result in different patterns of behaviour and frequent comings and goings. However given that the predominant character of Eaton Gardens is flatted development which contain up to 40 units, it is considered that the resultant occupancy and associated level of activity is comparable to that of neighbouring properties. Therefore the use of the property as a large HMO is broadly similar to that of other properties within the immediate context of the property and therefore the proposal is not considered contrary to Policy QD27.

The applicant has confirmed that given that some of the bedrooms are of generous sizes and able to accommodate two occupiers, the intended future occupancy levels for the building are 20 persons. As mentioned above, the size of the proposed scheme is deemed acceptable. However to ensure occupancy levels a suitably worded condition will be attached to any permission given to secure the number of future occupiers and to retain all communal facilities to ensure there would be no future increase in the number of bedrooms.

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.

A draft Management Plan has been submitted as part of the application submission which sets out tenancy procedures and behaviour management. The submission of a fully detailed Management Plan to be submitted within 3 months of any approval given is recommended to be secured by condition.

## **8.6 Sustainable Transport:**

When the existing building was operational as a care home the property provided 14 bedrooms with ancillary office accommodation. The number of bedrooms proposed is similar to that existing and it is therefore not considered that there would be a substantial uplift in the number of trips generated as a result of the change of use when taking into account staff and servicing associated with the former care home.

The on-site car parking spaces are to be retained however these spaces are not formally laid out. The on-site parking area would appear to accommodate approximately 4 vehicles which is in accordance with SPD14.

However given the size of the HMO proposed it is considered that there is potential to generate additional demand for on-street parking. The proposed use is considered likely to generate overspill parking at times when residential parking demand on surrounding streets is highest. Whilst the surrounding Controlled Parking Zone would manage the impact of overspill parking there is currently a waiting list for permits in Zone N.

It is considered that restricting access of future occupants to parking permits would be warranted in this instance on the grounds of the size of the proposal, the potential for additional on-street demand and the good accessibility of the site by sustainable transport modes.

Cycle parking appears to be proposed for the site in accordance with the minimum requirement by SPD14. The plans indicate that this is to be located to the front of the building; however full details of this are recommended to be secured by condition.

## **8.7 Sustainability:**

Given that the proposed site relates to the conversion of an existing property, in this instance energy and water efficiency standards are not sought by condition.

## **9. EQUALITIES**

- 9.1 Given that the proposal relates to the conversion of the existing property, the works would not be required to comply with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings).