

<u>No:</u>	BH2020/00995	<u>Ward:</u>	Moulsecoomb And Bevendean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	90 Southall Avenue Brighton BN2 4BB		
<u>Proposal:</u>	Change of use from (C3) dwelling to (C4) small house in multiple occupation incorporating the erection of a single storey rear extension and minor fenestration alterations.		
<u>Officer:</u>	Sven Rufus, tel: 292454	<u>Valid Date:</u>	03.04.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	29.05.2020
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Mr T Mole Care Of Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		

This application was deferred from Committee on the 2nd September 2020 to further investigate other HMOs in the vicinity.

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
Proposed Drawing	01		3 April 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 development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details 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, 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.

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. The external finishes of the single storey rear extension 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/HE6 of the Brighton & Hove Local Plan and CP12/CP15 of the Brighton & Hove City Plan Part One.
6. The area marked as Kitchen/diner and the area marked as Living area as detailed on drawing 01, received 3rd April 2020 shall be retained as communal space at all times and shall not be used as bedrooms at any time.
Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan
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.
8. The existing fence separating the rear terrace from the neighbouring building at 92 Southall Road shall be retained, or if replaced an equivalent fence or other solid screening of at least 1.8m shall be installed and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and 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. 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 & APPLICATION DESCRIPTION

- 2.1. The application site is one of a pair of semi-detached houses on the north side of Southall Avenue in Bevendean. It is a two storey, pebble-dashed house with a front porch, with car parking on the hardstanding to the front of the house.
- 2.2. The application seeks to change the use of the site from planning use class C3 (dwellinghouse) to use class C4 (House in Multiple Occupation (HMO) for use by 3 to 6 unrelated individuals), with an associated single storey rear extension.
- 2.3. The whole city is now covered by an Article 4 Direction which removes 'permitted development' rights which would otherwise allow the change of use from a single dwellinghouse (C3) to small HMO (C4) without the need for a planning application. However, the Moulsecoomb And Bevendean Ward, in which the site is located, has been subject to this restriction since 2013 under an earlier Article 4 direction.

3. RELEVANT HISTORY

- 3.1. 65/2131: Formation of hardstanding including new vehicular access (Approved 23/11/65)

4. REPRESENTATIONS

- 4.1. Two (2) letters have been received from neighbours, objecting to the proposed development for the following reasons:
 - Imbalanced community/too many HMOS in the area already;
 - Noise and disturbance; and
 - Poor management.
- 4.2. Councillor Yates has objected to this proposal. A copy is attached to this report.

5. CONSULTATIONS

- 5.1. **Housing:**
No objection
No objection or comment other than the requirement to apply for an HMO licence.
- 5.2. **Planning Policy:**
No Comment
- 5.3. **Sustainable Transport:**

No objection (comment provided verbally)

No objection. There is room at the front or rear of the property for three cycle parking spaces. A slight increase in vehicle trips is anticipated but not significant enough to warrant refusal.

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. The council will consider the best time to carry out the consultation after the coronavirus (Covid-19) restrictions are lifted.

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
QD15	Landscape design
QD18	Species protection
QD27	Protection of amenity

Supplementary Planning Documents:

SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the proposed change of use; the standard of accommodation provided; the acceptability of the proposed rear extension in design terms; the impact of the proposed change of use on the amenity of the neighbourhood; and the transport implications of the proposals.

Principle of the Proposed Change of Use:

- 8.2. 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 larger House in Multiple Occupation ('sui generis' - not falling in any use class) 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.”*
- 8.3. A mapping exercise was undertaken (confirmed on 3rd September 2020) which indicated that there are 34 properties within a 50m radius of the application property. Within this radius, four other properties have been identified as being in HMO use.
- 8.4. However, one of these, at 98 Southall Avenue, while shown as an HMO on the mapping system is excluded from that total. The Council has evidence that the property has been managed under a headlease arrangement with the University of Brighton since 2001, and as such the property is not considered as an HMO but falls within the use class as a C3(c) residential dwelling. The council does not have any information regarding when the university will cease to manage the property in this way, but regardless of when that arrangement ceases, as the

property is located in an area covered by the Article 4 Direction, a planning application for change of use from C3 to C4 would be required should the owner wish to use the property as a HMO. This would then be subject to policy CP21 based on the information regarding other HMO's in the vicinity at the time that permission is sought.

- 8.5. The property at 98 Southall Avenue is highlighted on the HMO mapping as it has a licence granted, which is as a result of changes in licencing legislation requiring headlease properties to be licenced. However for planning purposes with regards to policy CP21, the property remains in use as C3 rather than a C4 HMO and as such is not included within the calculations.
- 8.6. The mapping exercise also includes the adjoining property, number 92 Southall Avenue which has various planning permissions to change use to a HMO, but there is uncertainty over whether these have been lawfully implemented. Nonetheless, it has been included as a HMO for the purposes of the calculations required for this application with regards to policy CP21.
- 8.7. Excluding the property at 98 Southall Avenue from the consideration of the numbers of properties within 50m of the application site, but including number 92, there are three qualifying properties out of the 34 properties. This means that in total, there are 8.8% HMOs within 50m.
- 8.8. Based upon the existing percentage of neighbouring properties in HMO use, which is not greater than 10%, the proposal to change of use to a six bed house in multiple occupation would not be in conflict with the aims of policy CP21.

Standard of Accommodation:

- 8.9. Policy QD27 relates to protection of amenity and confirms that permission will not be granted where development 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.
- 8.10. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, Draft City Plan Part 2 proposes to adopt them, indicating a 'direction of travel' on behalf of the Local Planning Authority. The NDSS provide useful guideline on the acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed. The NDSS identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5m², and a double bedroom should measure at least 11.5m². To be included in the minimum floor space, there must be a head height above 1.5m.
- 8.11. The existing dwelling comprises a large living room, dining room and kitchen with internal store at ground floor level, with three bedrooms, a shower room and a separate WC at first floor level.

- 8.12. The proposed layout, including the proposed rear extension, would comprise six bedrooms: two on the ground floor and four on the first floor. The floor areas of these vary between 7.5m² and 8.5m², excluding any areas such as 'mini-corridors' behind doors where the floor area would not be considered usable. All rooms show a good layout, including an indicative furniture arrangement, with good access to natural light. As such, it is considered that all of the bedrooms shown would be suitable for single occupancy, giving a maximum occupancy for the property as a whole of six persons.
- 8.13. The property also offers a shared shower-room on each floor, and a small utility area on the ground floor. The property would provide approximately 27m² of communal space, divided between a kitchen/dining area and a living room to be provided in the proposed single storey rear extension. Given that all the rooms are at or close to the minimum level that the NDSS supports as an acceptable standard of accommodation, potential future occupants would be expected to want to make more use of the communal space available, and so in such circumstances, it is appropriate to pay special attention to the standards within this space.
- 8.14. The layout and arrangement of the items of furniture shown on the plans is recognised as being indicative only, but this is considered to represent what the applicant accepts as a plausible solution to the constraints on space within the ground floor communal area. It is noted that the space is broadly divided into two areas, linked by steps down from the kitchen to the living room, with a dining table located by the bannister of those steps. It is accepted that not all occupants may not be using these spaces at the same time and that in total the plans show a total of ten seats (five dining and five living room). However it is not considered that the space available in the dining area would realistically be able to accommodate five people at once as the table shown is small and there is little around the table for access and manoeuvring. Nonetheless, seating for more than six people would be available.
- 8.15. The layout on the ground floor allows ample space for cooking and adequate space for moving around and through the rooms, with sufficient seating in the various areas for six people. In light of the limited space in the bedrooms and the consequent increased demands that would be placed on the communal space, it is considered that the layout of the proposed HMO would provide a suitable standard of occupation for up to six occupants.
- 8.16. On this basis, the standard of accommodation to be provided is considered acceptable.

Design and Appearance:

- 8.17. The proposed scheme would result in changes to the appearance of the rear of the property, with a new single storey side extension, the replacement of a side door with a bathroom window, and the removal of a window on the rear first floor. The proposed extension would measure 3m deep and 5.4m wide, and would be finished in render to match the main dwelling.

- 8.18. If the property was in use as a dwelling (use class C3), the proposed extension could be constructed under 'permitted development' rights. Because of the proposed HMO use this is not the case, so the extension must be assessed as part of the overall proposal, though it is relevant to note that the extension could previously have been added without the need for a planning application.
- 8.19. Notwithstanding this, the small scale of the extension, and its location to the side of the property furthest from the conjoined property at 92 Southall Avenue, with a 1.5m gap to the boundary and a 3m gap to the nearest property at 88 Southall Avenue, means in design terms, it is considered acceptable. Being at the rear, it would not have any adverse impact on the streetscene or wider area. The design and arrangement of windows is considered to be consistent with those of the host building.
- 8.20. Conditions are proposed requiring materials to match those of the host building. On this basis, the scheme is considered acceptable in terms of design and appearance.

Impact on Amenity:

- 8.21. 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.
- 8.22. The proposed extension would not be immediately adjacent to any neighbouring buildings or gardens and is not considered to cause any potential harm to neighbours as a result of overlooking, overshadowing, or the creation of an overbearing structure. The use of the extension as a living area would not result in harm beyond that which may be experienced by the normal residential use of such a property in this location.
- 8.23. The site is not in an area that currently has above 10% of properties within 50m of the application site 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 sufficient to warrant refusal of the application on the grounds of potential amenity impact.
- 8.24. The application also includes a proposal to include an area of decking at the rear of the property, accessed from the proposed extension and adjacent to the boundary with 92 Southall Avenue. The potential for decking to increase harmful impact on the amenity of neighbours arises when it would increase the level of use of an area, or bring a use close to sensitive parts of residential accommodation. In this case, it is not considered the decking would increase the use of or access to the rear of the property, and the location would not be immediately adjacent to bedrooms of the occupants of the application site or neighbouring property. There is a fence between the application address and 92 Southall Avenue which would prevent mutual overlooking between these two properties. A condition is recommended to ensure retention of this boundary treatment.

- 8.25. The potential for overlooking on to other properties from the terrace has been assessed. It is considered that although the rear garden slopes down towards the properties to the north on The Avenue, the distance between them and the application site, and the minimal impact on the height of the vantage point by including a terrace, is such that there would not be significant additional overlooking from this point beyond that which is already possible.
- 8.26. As such it is considered that there would be no significant increase in harm to the amenity of the occupants of the proposed property or neighbours as a result of this application.

Sustainable Transport:

- 8.27. The application does not propose to vary the parking arrangement from the existing one space in front of the property and this is acceptable. The property is not within a Controlled Parking Zone and as such there is neither need nor opportunity to require the development to be permit free.
- 8.28. The garden is considered to have ample room at either front or rear for secure covered cycle storage sufficient for the storage of a minimum of three bicycles. This will be secured by condition.

Biodiversity:

- 8.29. The council now requires provisions to be made for biodiversity in all applications. While none have been specifically proposed as a part of this application, such measures will be secured by condition, with a requirement to include bee bricks and swift boxes in the final scheme.

9. EQUALITIES
None identified

