

<u>No:</u>	BH2020/01834	<u>Ward:</u>	Moulsecoomb And Bevendean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	85 Hornby Road Brighton BN2 4JH		
<u>Proposal:</u>	Erection of single storey rear extension and covered cycle store. Change of use from single dwellinghouse (C3) to 6no bedroom small house in multiple occupation (C4) (Retrospective).		
<u>Officer:</u>	Rebecca Smith, tel: 291075	<u>Valid Date:</u>	07.07.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	01.09.2020
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Rivers Birtwell C/o Lewis & 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.

Plan Type	Reference	Version	Date Received
Detail	Soundproofing Sepc 1		7 July 2020
Detail	Soundproofing Spec 5		7 July 2020
Detail	Retaining Brake Spec		7 July 2020
Location Plan	01		7 July 2020
Proposed Drawing	0260/COU.01		7 July 2020
Report/Statement	Planning Statement		7 July 2020

2. 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.

3. 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.

4. The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplans, drawing no 0260/COU.1, received on 7th July 2020 and shall be retained as such thereafter. The layout of the kitchen/dining/living room 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 soundproofing and retaining brake specification implemented and hereby approved shall be retained and maintained within the property at all times.

Reason: To ensure that the site is operated in accordance with the details submitted and to be in accordance with policies SU10 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. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The site is a semi-detached property on the northern side of Hornby Road. The house is brick built with a tiled roof and there is an existing side extension. The house is set back from the pavement behind a front garden and has a rear garden.
- 2.2. The application site is located within the Moulsecoomb and Bevendean ward and is subject to a now city-wide Article 4 direction removing the 'permitted development' rights which would allow a change from a dwelling to a HMO, so a planning application is required to do so.
- 2.3. The application seeks retrospective planning permission or the change of use from a dwellinghouse (planning use class C3) to a small house in multiple occupation (HMO)(planning use class C4).

- 2.4. The application also seeks retrospective planning permission for a single storey rear extension and cycle parking, though the retrospective nature of this element is not a material consideration.

3. RELEVANT HISTORY

None

4. REPRESENTATIONS

- 4.1. **Twelve (12)** letter has been received, objecting to the proposed development for the following reasons:

- Bevendean already has a high proportion of HMOs
- Increased noise, traffic, anti-social behaviour and litter as a result of HMOs.
- Lack of community facilities in area: youth centre and scout hut closed due to lack of demand
- Lack of demand for the local school.
- Increase in student accommodation elsewhere so no need for more HMOs.
- Works already begun internally and for the extension.
- Overdevelopment
- Cycle store is up steps so is more likely to lead to more cars
- Internally communal area not big enough for students
- Breaches Policy CP21
- Bevendean at a disadvantage when CP21 applied due to larger plot sizes.
- No off-street parking provided
- Lack of sense of community in the area
- Family housing desperately needed in the area.
- Bevendean not a community just an extension of university campus.

- 4.2. **Councillor Yates** has objected to this application. A copy of the representation is attached to this response.

5. CONSULTATIONS

- 5.1. **Environmental Health:** No objection subject to condition

The application seeks to convert a semi-detached 3-bedroom property into 6 bedrooms. More bedrooms will equal more occupants which it is reasonable to expect will result in more noise especially considering the sharing of a party wall.

- 5.2. As such some noise mitigation may be necessary. This is acknowledged in the planning statement of the application. The figures quoted are, in the opinion of the Environmental Health officer extremely optimistic figures for soundproofing which may not be achievable.

- 5.3. The Environmental Health comments request a condition to require an acoustic survey to determine the level of sound proofing required and for that to be installed prior to occupation.

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

- 5.5. **Planning Policy:** No comment
- 5.6. **Private Sector Housing:** Comment
There is no mention of the level of fire protection within the proposals. The Automatic Fire Detection System (AFD) requirements should be based on the LACORS Housing Fire Safety Guidance on fire safety provisions for certain types of existing housing.
- 5.7. **Sustainable Transport - Verbal Comment:** No objection
No objection. Site is not located within a Controlled parking Zone (CPZ) and it is noted that the site does not provide off-street car parking. However, we do not wish to object on this ground as any parking is likely to be accommodated in the vicinity of the site.
- 5.8. The application submission includes cycle parking details; the proposals show covered cycle parking for 4 cycles which is policy compliant. It is noted that the proposed cycle store is located up steps which is less than ideal, however, significant works would be required to remove the stepped access and therefore on this occasion the Highway Authority is supportive of the inclusion of cycle parking to encourage sustainable travel. The cycle parking shown on the plans should be secured through an implementation condition.
- 5.9. The proposed change of use from C3 to C4 (small HMO) is unlikely to result in a significant uplift in trips which would warrant refusal of the application because of a detrimental impact on the local highway network.

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 is currently underway to 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):

TR7	Safe Development
TR14	Cycle access and parking
SU10	Noise Nuisance
QD14	Extensions and alterations
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development

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 design and appearance of the rear extension and bike storage, the effects of the proposed change of use on neighbours' amenity, the standard of accommodation to be provided for future occupiers, and transport matters.
- 8.2. Due to the ongoing coronavirus pandemic a physical site visit has not taken place when assessing this application. Instead, a desktop assessment has been made using up to date photographs of the site provided by the planning agent and street view imagery. This is considered sufficient to assess the acceptability of the proposal.

Principle of Change of Use:

- 8.3. 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."*
- 8.4. A mapping exercise has been undertaken which indicates that there are 31 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 3.22%.
- 8.5. Based on the existing percentage of neighbouring properties in HMO use, which is less than 10%, the change of use to a six-bedroom HMO (C4) would not conflict with the aims of policy CP21.
- 8.6. It is noted that the property has recently been occupied with six unrelated tenants and that the change of use aspect of this application is now retrospective in nature, though this is not a material consideration in relation to the proposal.
- 8.7. Several other addresses have been mentioned in neighbour representations as being in HMO use. 150 Health Hill Avenue is a lawful HMO and has been included in the calculation above. Planning permission was sought for 84 Hornby Road to become a HMO, but withdrawn, no further planning applications have been received to date. There is also no evidence that 84 Hornby Road has a licence to operate as a HMO. The other addresses mentioned do not fall within the 50m radius of the site and are therefore not part of the consideration of this application.
- Design and Appearance:**
- 8.8. The proposed rear extension, which has already been completed on site, is to the rear and incorporates the existing side extension (store and outside WC) from the existing house. The rear extension is off set from the shared boundary with the semi-detached neighbour.
- 8.9. It is of brick construction with a flat roof membrane and white uPVC windows and door to match the existing house. The extension does not adversely affect the character and appearance of the property or that of the wider area.
- 8.10. In terms of the cycle parking provided to the front of the property, this would not protrude significantly in front of the building line, and is located close to the building so does not look cluttered. Therefore, although a separate structure, it would have little impact on the appearance of the property as a whole or that of the area.

- 8.11. The development is therefore considered acceptable in terms of design and appearance.

Standard of Accommodation:

- 8.12. The six-person, six-bedroom HMO has a living/dining and kitchen space on the ground floor, along with three bedrooms and a shower room, with a further three bedrooms, another shower room and separate WC on the upper floor.
- 8.13. The communal space to the property would be arranged to the rear and would not share the party wall with the neighbour at no. 87. The kitchen/dining/living would be one space of approximately 25.38sqm. The indicative furnished layout demonstrates that the communal layout can provide comfortable seating and dining facilities as well as enough storage/worktop space for the proposed occupiers to prepare and store food/cooking equipment.
- 8.14. The six bedrooms would range in size from 7.54sqm to 8.42sqm. 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 exceed the minimum size indicated by the Space Standards for a single occupancy bedroom.
- 8.15. The indicative layout provided shows that the kitchen/dining/living room provides adequate space for the number of residents proposed to cook, dine and relax together. Similarly, the plans indicate show that the bedrooms of this property are all capable of accommodating the standard furniture expected in a HMO bedroom (bed, desk, chair and storage furniture) without compromising on the circulation space within the room for an adult to move around comfortably.
- 8.16. Finally, to the rear of the property there is a garden which provides outdoor private amenity space which is enough for the number of occupiers/size of the dwelling. The objectives of policy HO5 to ensure that private amenity space is provided are therefore met.
- 8.17. Overall, the property would provide a good standard of accommodation for future occupiers of the development in accordance with Local Plan policies QD27 and HO5 of the Brighton and Hove Local Plan. A condition restricting the number of occupiers is not required in this instance as a C4 HMO provides for a maximum of 6 people.

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 use of the property as a small HMO with a maximum of six occupiers would not be too dissimilar to that of a family dwelling. The pattern of movement within the dwelling and to and from the dwelling may be different

owing to the individual lives being led rather than a family unit. However, the impact of this would not be of such a magnitude to cause substantial harm or warrant refusal.

- 8.20. 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. Sound proofing measures have been included as part of this application (and have already been constructed on site); these details have been reviewed by Environmental Health Officers who have raised concerns about the "extremely optimistic" figures for sound proofing that may not be achievable. The comments of the Environmental Health Officer also state that "more bedrooms will equal more occupants which it is reasonable to expect will result in more noise especially considering the sharing of a party wall" and then goes on to say that some noise mitigation may be necessary. However, these comments have not specifically identified that the increase will result in harm.
- 8.22. The comments have requested that a condition be attached to require an acoustic survey prior to development. In considering whether to attach the condition suggested by the Environmental Health Officer, regard must be had to whether this is reasonable, and necessary to make the development acceptable. Given that no express harm has been identified and the comments state that more noise would be created, it is then important to consider whether the additional noise would be above that reasonably expected.
- 8.23. The sound proofing details included within the application are similar to those submitted by the same applicant in relation to BH2019/01050 - 26 Brentwood Crescent. This application was heard at planning committee on 7th August 2019 and refused by the committee, but overturned by an appeal (APP/Q1445/W/19/3235929) and permission granted. The Inspector for this appeal acknowledged that the sound proofing was included within the application and that it would mitigate against noise transference to the adjacent dwelling, but also noted that "potential forms of noise and disturbance such as the playing of loud music, partying, or social activity in the garden would not necessarily be any more likely to cause harm to neighbouring residents than would be the case with a large family, which could easily be accommodated within the property."
- 8.24. In the interests of consistent decision making regard should be had to the appeal decision and application noted above and that the origins of the application are a requirement of the Article 4 Direction and policy CP21 which seek to protect from over-concentrations of HMOs within an area, QD27 would be the policy test for noise matters. It is not considered that the use of the property by six-sharers is significantly harmful to the amenity of neighbouring residents to warrant refusal of the ground of potential noise disturbance over and above that of a large family.

- 8.25. Considering the above the requested condition will not be recommended as the noise may not be greater than that reasonably expected by a large family. Furthermore, should excessive noise be found to be emitting from the property in the future, then under the Environmental Protection Act 1990 the Environmental Health team could act if "statutory nuisance" was evidenced. This planning recommendation would not prejudice that should it become necessary. However, a condition will be applied to ensure that the sound proofing and door closers constructed will be retained and maintained.
- 8.26. In terms of other amenity issues that have been raised by neighbours such as litter, anti-social behaviour and refuse, these are anecdotal points which would not provide substantive grounds for refusal of the application on amenity grounds. The plans indicate refuse and recycling storage space and a condition is recommended to ensure these are always available for use.

Sustainable Transport:

- 8.27. The change of use from C3 to C4 small HMO is unlikely to have a significant effect on the local highway network to warrant refusal of the application on this ground.
- 8.28. The Highway Authority is not concerned about overspill car parking arising from the change of use. The property is not located within a CPZ so there are no restrictions on on-street parking.
- 8.29. Cycle parking has been included within the application, and although accessed via steps which is less than desirable, it is the only option for encouraging sustainable travel by bicycle at this site. To provide cycle parking at pavement level would warrant significant engineering works which are not necessary given the alternative. A condition is recommended to ensure that the cycle parking agreed is implemented and retained in accordance with these details.

9. EQUALITIES
None identified

