

<u>No:</u>	BH2021/03176	<u>Ward:</u>	Hanover And Elm Grove Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	141 Elm Grove Brighton BN2 3ES		
<u>Proposal:</u>	Change of use from residential dwelling (C3) to House in Multiple Occupation (C4) and erection of rear dormer and rear extension (part retrospective).		
<u>Officer:</u>	Charlotte Bush, tel: 292193	<u>Valid Date:</u>	31.08.2021
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	26.10.2021
<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 Care Of 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		31 August 2021
Proposed Drawing	2021-05-P-07	B	28 October 2021
Proposed Drawing	2021-05-P-12		31 August 2021
Proposed Drawing	2021-05P-13		28 October 2021

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.

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.

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. 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.

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 the recent works commenced, as set out below, comprised an existing rooflight to the front and two rooflights to the rear roof. The site is located on the north side of Elm Grove, between Bonchurch Road and Whippingham Road.

- 2.2. Elm Grove is a prominently residential area with good transport links and is within walking distance of local shops and facilities.
- 2.3. 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. **BH2021/02447** - Certificate of lawfulness for proposed rear dormer. Approved 23/08/2021
- 3.2. **BH2021/02404** - Erection of a single storey rear extension, with associated works. Approved 20/08/2021
- 3.3. **BH2015/02962** - Conversion of single dwelling into 2no flats. Refused 19/01/2016
- 3.4. **BH2014/03885** - Conversion of existing single dwelling into 3no flats. Refused 17/07/2015

4. APPLICATION DESCRIPTION

- 4.1. This application seeks permission to convert the existing C3 residential dwelling house to a small HMO in C4 use class providing 5 bedrooms.
- 4.2. The scheme has been amended over the lifespan of the application. The floor plan has been altered to remove the bedroom to the lower ground floor. The amended plans now show the room as an additional communal space (in accordance with officer advice).
- 4.3. The site has existing consent for a rear extension onto the garden at lower ground floor level (BH2021/02404), and a Certificate of Lawfulness for a rear dormer roof extension (BH/2021/02447). However, the dormer and extension are not yet fully constructed (and therefore are not shown on the existing plans). The description has therefore been amended since submission of the application to include these part retrospective extensions. The application has been readvertised.

5. REPRESENTATIONS

- 5.1. **Six (6)** letters have been received from objecting to the proposed development for the following reasons:
 - Over development
 - Additional traffic
 - Detrimental effect on property value
 - Poor design

- Residential amenity
- There are not enough bathrooms to bedrooms
- The lower ground floor bedroom would be subject to much disturbance
- This is a family area not suitable for student lets and should remain so
- Noise and anti-social behaviour from houses of multiple occupation
- There are care facilities for the elderly and those with learning difficulties nearby. The noise and antisocial behaviour that arise from HMOs would be detrimental to the venerable
- Fire hazard, basement door has been closed off giving no escape for front room residents
- Services are already stretched for locals
- There is a shortage of good housing for local people who want to send their children to local schools
- These types of properties attract transient residents who are not invested in the local area.

5.2. The application has been re-advertised. In response, **three (3)** letters has been received objecting to the proposed development for the following reasons:

- Because of the additional traffic
- Detrimental effect on property value
- Inappropriate height of development
- Noise
- Overdevelopment
- Too many HMOs in the area
- Anti social behaviour

5.3. **Councillors Gibson and Powell** objected to the scheme, and their comments are attached.

6. CONSULTATIONS

6.1. **Planning Policy:** No Comment
Policy comments not required

6.2. **Private Sector Housing:** Comment
Should the above application be granted then the applicant will need to apply for HMO Licence via the council' website.

6.3. **Sustainable Transport:** Verbal Comments No objection
The proposed scheme is unlikely to generate significantly more trips or on street parking. An HMO of this size requires cycle stands for a minimum of 3 bikes. Bike storage has been suggested for the rear garden, but this does not appear to include individual security facilities for each bike. Two covered Sheffield stands would be the recommendation, and this 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 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. 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
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

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

9. CONSIDERATIONS & ASSESSMENT

The main considerations in the determination of this application relate to the principle of the change of use, design and appearance, the standard of accommodation which the C4 use would provide, impact upon neighbouring amenity and transport issues.

Principle of Development:

9.1. The application is for change of use from a C3 dwelling to a use which would allow occupation of the property as a five-bedroom C4 HMO, for 5 people.

9.2. 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 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.'

9.3. A mapping exercise has taken place which indicates that there are 99 neighbouring residential properties within a 50m radius of the application property. Three (3) neighbouring properties have been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is thus 3.03%.

9.4. Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a C4 HMO would be in accordance with policy CP21.

Design and Appearance:

9.5. Policy CP12 of the Brighton & Hove City Plan Part One seeks to ensure that all new development raises the standard of architecture and design in the City. In tandem with this, Policy CP14 of the City Plan seeks to encourage a higher density of development than those typically found in the locality provided

developments will, amongst other things, respect, reinforce or repair the character of a neighbourhood and contribute positively to its sense of place.

- 9.6. The description has been amended during the lifespan of the application to include a single storey rear extension and rear dormer currently under construction at the site. The principle of these extensions has already been established under planning applications BH2021/02404 (rear extension) and BH2021/02447 (certificate of lawfulness for the dormer) and as such there is a fall-back position for the single storey extension and dormer extension. As the extensions have not been fully constructed at the time of submission of this application it was considered necessary to incorporate them within this application. As the extensions have already commenced this application is part-retrospective
- 9.7. The single storey full width rear extension would extend 3.2m in depth and 3.3m in height to the flat roof. The curtilage of the application site was considered large enough to accommodate an extension of this size without compromising the rear garden space. The extension was not considered to be a dominant addition that would be adversely harmful to the appearance of the host dwelling. Additionally, there are multiple other examples of similar sized extensions in the immediate vicinity of the site.
- 9.8. The walls of the extension would be constructed from white rendered block masonry and the fenestration would be UPVC framed. The materials of the proposed extension would therefore be sympathetic to the host dwellinghouse.
- 9.9. The proposed single storey rear extension remains acceptable in design terms.
- 9.10. The rear dormer was considered to comply with permitted development regulations. It would be finished to match the materials of the original dwellinghouse. It would extend almost to the full height of the roof - measuring 2.45m high with and a depth of 3.3m and width of 4.09m. The edge of the proposed roof addition would be 0.4m away from the eaves of the original roof.
- 9.11. The proposed rear dormer is considered to comply with permitted development rights. The regulations remain pertinent to planning units in C4 use class
- 9.12. A condition securing a bee brick in the single storey extension is required to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Standard of Accommodation:

- 9.13. HMO licensing seeks to secure minimum standards of accommodation fit for human habitation such as fire safety standards and access to basic facilities such as a kitchen, bathroom and toilet. The Local Planning Authority's development plan has a wider remit to secure a good quality of accommodation which would ensure a good standard of amenity for future occupiers. It is therefore clear that the remit of the Planning regime allows the Local Planning Authority to consider a wider range of issues and to seek to secure a higher

standard of accommodation than the bare minimum fit for human habitation secured by the licencing requirements.

- 9.14. 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, Policy DM1 of Draft City Plan Part 2 proposes to adopt them and can now be given significant weight.
- 9.15. 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. The minimum floor space requires a head height of above 1.5m. Rooms are also assessed for their ability to provide suitable room to circulate within them by future occupants.
- 9.16. The plans have been amended over the lifespan of the application to remove the bedroom to the lower ground floor, altering the proposal from a 6 person/6 bedroom C4 to a 5 person/5 bedroom HMO. This previously proposed additional bedroom was considered to have limited access to natural light and outlook, creating a dark and oppressive living space. The bedroom would also be subject to noise and disturbance from people accessing and using the communal space, and as such was to considered acceptable and was subsequently removed following discussions with the case officer.
- 9.17. The proposed plans now provide an open plan lounge/kitchen/dinner (within the new rear extension) plus additional lounge and a shower room to the lower ground floor. The communal lounge/diner and additional lounge provides a combine space of 39.3sqm which is considered adequate for communal relaxation, cooking and dining for 5 occupants. The open plan lounge/kitchen/diner also has good access to natural light and ventilation from the lounge window and French doors and adequate circulation space once the normal furniture for such use has been installed. It is acknowledged that the separate front lounge would have limited outlook and would be quite dark, but this is not considered to justify refusal as there is another living from area and overall communal space provided is good for five occupants.
- 9.18. Five bedrooms are provided on the upper floors:
- Upper ground floor rear bedroom measures 10.5sqm
 - Upper ground floor front bedroom measures 13.05sqm
 - First floor rear bedroom measures 10.5sqm
 - First floor front bedroom measures 11sqm
 - Second floor bedroom 14sqm (with a head height above 1.8m)
- 9.19. All of the bedrooms show single beds and it is considered that there is sufficient circulation space in each of the bedrooms for single occupancy, once furnished with typical furniture for such use. All bedrooms also have good access to natural light and ventilation.

- 9.20. While some of the bedrooms exceed the minimum to be considered suitable for double occupancy, as the application is now for a maximum of five unrelated people, this limit will be secured by condition and the larger rooms would not consequently result in an increased occupancy. The proposed bedrooms indicated are considered to be suitable for occupation by up to five people.
- 9.21. There are shower facilities on the lower ground floor and second floor, which is considered sufficient for five occupants.
- 9.22. Overall, the revised accommodation is considered reasonable for five adult occupants.
- 9.23. The amended layout will be secured by condition as the front lower ground floor room is not suitable to be used as a bedroom due to its limited access to natural light and outlook, and because it would be subject to much disturbance from people using the adjoining communal space.
- 9.24. The accommodation proposed is considered acceptable, in accordance with policy QD27 of the Brighton and Hove Local Plan and emerging policy DM1 of CPP2 (of which can be given significant weight).

Impact on Amenity:

- 9.25. Policy QD27 of the Brighton & Hove Local Plan and emerging policy DM21 of City Plan Part 2 (that can be given significant weight) state 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.
- 9.26. The proposed change of to a five bed HMO would result in a more intensive use of the property as it is more likely to be five adults in residence rather than a family. However, it is not considered that the increased noise/disturbance to neighbouring amenity would be sufficient to warrant refusal of the application. It is, however, considered necessary to restrict the number of occupants to five via condition to limit the impact on neighbours.
- 9.27. As already noted, Policy CP21 of the Brighton and Hove City Plan Part One supports the change of use to C4 House in Multiple Occupation, provided that there is not an excessive proportion of neighbouring dwellings in HMO use (over 10% within a 50 metre radius). The application accords with policy CP21 in this regard and any increased impact likely to be caused in this case would not be of a magnitude which would cause demonstrable harm.
- 9.28. The external alterations to facilitate the change of use includes the erection of a single storey rear extension and rear dormer. The single storey rear extension has already been granted planning permission under application BH2021/02404 and was considered to have limited impact on neighbouring amenity.
- 9.29. Due to the north-facing orientation of the gardens, some loss of sunlight in the neighbouring garden at no.139 Elm Grove may occur. Despite this, the proposed

extension would only extend 1.0m beyond the rear outrigger of this property and there are no outrigger windows which would be directly affected by the development. No.143 Elm Grove is situated on a higher ground level than the application site which would help mitigate the height of the proposed extension. Furthermore, the proposed extension would only extend approximately 1.0m beyond the rear elevation of the existing extension at no.143. The potential amenity impacts are therefore not considered significant enough to warrant a refusal of the application in this instance. It is also noted that following the approval of application BH2021/02404 there is a fall-back position for the single storey rear extension.

- 9.30. A lawful development certificate for the rear dormer was granted under application BH2021/02447. The addition of a dormer would increase the level of overlooking to neighbouring properties. There is existing overlooking between the application site and the rear garden of No. 2 Bonchurch Road. The increase in overlooking from the dormer is not to a degree that would warrant the refusal of the application. Furthermore as a certificate has already been granted there is a fall-back position for the rear dormer.
- 9.31. Overall, whilst there may be some limited adverse impacts over and above those which exist at the site, the impact on amenity of neighbouring occupiers is not considered to be so detrimentally significant as to warrant refusal of the application.

Biodiversity

- 9.32. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bees. A condition requiring a bee brick has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Sustainable Transport:

- 9.33. The proposed scheme is unlikely to generate significantly more trips or on street parking. Bike storage has been suggested for the rear garden but is not considered suitable. A condition requiring a revised scheme for bike storage will be secured by condition.

10. EQUALITIES

None identified

11. CLIMATE CHANGE/BIODIVERSITY

- 11.1. The site has good links to facilities including shops, is well served by public transport, and cycle parking will be secured by condition, reducing reliance on cars. The works would modernise and refurbish the existing building. A bee brick would be secured by condition.

