

<b><u>No:</u></b>	<b>BH2021/04436</b>	<b><u>Ward:</u></b>	<b>Hollingdean And Stanmer Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>16 Talbot Crescent Brighton BN1 9GG</b>		
<b><u>Proposal:</u></b>	<b>Change of use from (C3) dwellinghouse to (C4) small house in multiple occupation, incorporating the erection of a single-storey rear extension and conversion of garage to habitable space.</b>		
<b><u>Officer:</u></b>	Rebecca Smith, tel: 291075	<b><u>Valid Date:</u></b>	17.12.2021
<b><u>Con Area:</u></b>	None	<b><u>Expiry Date:</u></b>	11.02.2022
<b><u>Listed Building Grade:</u></b>	<b><u>EOT:</u></b>		
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Henry Dorman Care Of Lewis And 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	0422/01		17 December 2021
Proposed Drawing	0422/COU.01		17 December 2021

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 external finishes of the development 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, CP12 of the Brighton & Hove City Plan Part One and DM21 of the emerging City Plan Part Two.

4. At least one bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

5. 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.

6. No further groundworks shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The archaeological work shall be carried out in accordance with the approved Written Scheme of Investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of their completion unless an alternative timescale for submission of the report is agreed in writing with the Local Planning Authority.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 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 semi-detached property located on the south-western side of Talbot Crescent in Coldean. The house is brick built with a tiled roof and uPVC fenestration. The application site is not a listed building, nor does it lie within a conservation area.
- 2.2. The whole city is now covered by an Article 4 Direction to remove permitted development rights regarding the change of use from a single dwellinghouse (C3) to small HMO (C4). The application property is sited within the Hollingdean and Stanmer ward which has been subject to the above restriction since April 2013.

### 3. RELEVANT HISTORY

None

### 4. APPLICATION DESCRIPTION

- 4.1. This application seeks planning permission for the change of use of 16 Talbot Crescent from planning use class C3 (dwellinghouse) to a C4 use (small House in Multiple Occupation (HMO)) and for a single storey rear extension and associated alterations.

### 5. REPRESENTATIONS

- 5.1. **Twenty-Nine (29) letters** have been received objecting to the proposed development for the following reasons:

- Additional traffic and increased parking stress,
- Detrimental effect on property value,
- Harm to residential amenity, including increased noise, disturbance and anti-social behaviour, overshadowing,
- Overdevelopment,
- Poor standard of accommodation,
- The area has too many HMOs which are detrimental to the amenity of the area,
- Coldean has no amenities because of HMOs
- Huge amount of student accommodation has been built in the surrounding area
- Family homes are needed in Coldean.
- Property gazumping by developers
- Poor design and inappropriate height,
- Adverse impact on listed building and conservation area,
- Families are being pushed out by HMOs and no scope for being turned back into a family home at a later date,
- Harm to local community values,
- Local School does not have enough children already,
- Grassed area will no longer be available for informal child's play due to increased parking demand.
- Risk to mental health,
- Not in accordance with CP21,
- Current demand for student accommodation is already satisfied and is likely to fall in the years to come,
- Not the best use of housing stock,
- Likely to lead to missed refuse and recycling collections.

- 5.2. **Coldean Neighbourhood Planning Forum** has objected to the proposal for the following reasons:

- Coldean community is becoming unbalanced,
- CP21 doesn't work for Coldean due to the lower density,

- Loss of family homes,
- Increasing anti-social behaviour from HMOs,
- Loss of the garage is unnecessary,
- Works are already taking place and parking from builders' vans is problematic,
- HMO already being advertised,
- Another house that doesn't pay council tax.

5.3. **Councillor Osborne** has objected to the application for the following reasons:

- Additional traffic and parking demand,
- Noise,
- Overdevelopment,
- Residential amenity,
- Internal layout barely exceeds the minimum space standards,
- No need for the extension,
- Loss of garage will force a further vehicle to park on the road,
- Noise,
- Waste management issues,
- Future tenants following rules set can be hit and miss.

5.4. **Councillor Fowler** has objected to the application for the following reasons:

- Additional Traffic,
- The layout of the road means that all of the neighbours will be affected by any increase in noise,
- Overdevelopment,
- Traffic or Highways,
- Coldean has too much student accommodation,
- Noise and antisocial behaviour from HMOs is already a problem,
- Will exacerbate existing parking problems.

5.5. **Councillor John** has objected to the application for the following reasons:

- Additional Traffic,
- Noise,
- Overdevelopment,
- Residential amenity,
- Proposals only just cover the standard size requirements,
- Extensions remove parking and garden space,
- Negatively impact on waste and parking within the vicinity.

5.6. A copy of the Councillors' representations is appended to this report.

## 6. CONSULTATIONS

6.1. **Brighton & Hove Archaeological Society: Comment**

The proposed development lies within an area of archaeological sensitivity. A number of ditches and houses dated to the Iron Age and Roman periods were revealed when the Coldean Estate was built. Among the finds from these early

excavations were coins including some of gold. The proposed development is close to the site of an Iron Age round house that when excavated produced a number of gold coins. The Brighton and Hove Archaeological Society would suggest that you contact the County Archaeologist for his recommendations prior to the approval of this planning application.

6.2. **County Archaeology:** No objection subject to conditions

First Comment - 26/01/2022:

The applicant has failed to meet the requirements of section 194 of the NPPF, and it is not possible to clarify the impact of the proposal on heritage assets or archaeological remains. Please seek further information and re-consult.

Second Comment - 14/03/2022:

6.3. The information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions securing a scheme of archaeological works and that the archaeological works shall be carried out in accordance with the approved scheme.

6.4. **Housing Strategy:** No comment received

6.5. **Planning Policy:** No comment

6.6. **Private Sector Housing:** Comment

Should the application be approved then the applicant must apply online for an HMO Licence via the council's website before the property is occupied by tenants.

6.7. **Sustainable Transport - Verbal Comment:** No objection

The change of use is unlikely to significantly increase trips or parking to/from the site. A minimum of 3 spaces for cycles would be required. The proposed cycle store in the front garden is considered to provide an acceptable level and type of cycle storage. the implementation of this store 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
CP15	Heritage
CP21	Student housing and Housing in Multiple Occupation

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

TR14	Cycle access and parking
SU10	Noise Nuisance
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HE12	Scheduled ancient monuments and other important archaeological sites

#### 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.

DM1	Housing Quality, Choice and Mix
DM7	Houses of Multiple Occupation (HMOs)
DM20	Protection of Amenity
DM31	Archaeological Interest
DM33	Safe, Sustainable and Active Travel
DM36	Parking and Servicing
DM40	Protection of the Environment and Health - Pollution and Nuisance

#### Supplementary Planning Documents:

SPD12	Design guidance for extensions and alterations
SPD14	Parking Standards

## 9. CONSIDERATIONS & ASSESSMENT

9.1. 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 extension and alterations, archaeological matters, the standard of

accommodation provided for future occupiers, the impact of the development on neighbouring amenity and transport matters.

**Principle of Proposed Change of Use:**

- 9.2. Policy CP21 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."*
- 9.3. A mapping exercise has been undertaken which indicates that there are 22 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 4.54%.
- 9.4. Based on the existing percentage of neighbouring properties in HMO use, which is less than 10%, the change of use to a four-bedroom HMO (C4 use) would not conflict with the aims of policy CP21.

**Design and Appearance:**

- 9.5. The proposals include a rear extension. The extension would be 3m in height and depth and 8m in width, with two projecting rooflights in the flat roof. The proposed materials for the extension would match those within the existing property where possible (white uPVC and brick, with a flat roof covering), and would be located to the rear of the property so would have no impact on the streetscene.
- 9.6. Further, it is important to note that an extension of this scale, form and proposed materials would fall within the scope of 'permitted development' rights and could be built without a planning application being submitted.
- 9.7. There are some minor alterations to the front of the property to allow for the conversion of the garage to habitable space. To enable this, the side access to the dwelling would be removed and blocked up and the garage door would be replaced with a white upvc window, similar to that at first floor level above. These amendments are considered to be acceptable and in keeping with the area.
- 9.8. The proposed extension and alterations are considered suitable additions to the property that would not harm the character and appearance of the property or wider streetscene. The proposal would be in accordance with emerging policy DM21 of the City Plan Part Two (which can be afforded more weight than local Plan policy QD14) and CP21 of the City Plan Part One.

**Standard of Accommodation:**

- 9.9. 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. Additionally, the proposals are considered against DM7 which sets the standard for HMOs (including what is expected of communal areas), this emerging policy can also be given significant weight.
- 9.10. The proposed HMO accommodation would comprise a living room (20.9sqm, kitchen/dining room (17.5sqm) and two bedrooms one being very large at 16.7sqm (converted garage) and the other being 7.5sqm. There would also be a shower room on the ground floor. At first floor there would be a further four bedrooms 7.5sqm to 16.7sqm in size and a further shower room and separate shower and WC.
- 9.11. The kitchen and dining space would allow for sufficient space for occupants to cook and dine together. The proposed HMO would be well served in terms of bathroom facilities with toilets and showers on both floors. All of the bedrooms would meet or exceed the minimum space standard as set out in the NDSS (7.5sqm) and allow for some circulation space once furnished with standard bedroom furniture (bed, desk/dresser, chair and storage furniture).
- 9.12. To ensure that the property is not overcrowded in the future conditions are recommended to secure a maximum occupation of six persons and six bedrooms with communal areas safeguarded from future conversions to bedrooms without further approval.
- 9.13. To the rear of the property is a garden which, even allowing for the rear extension, will leave a reasonable sized garden for the proposed level of occupation, in accordance with policy HO5 and emerging policy DM1.
- 9.14. Overall, it is considered that the conversion of the property to a small HMO would provide a suitable standard of accommodation for the number of occupants proposed and is therefore in accordance with to policy QD27 and HO5 of the Brighton and Hove Local Plan and emerging polices DM1 and DM7 of the City Plan Part Two which can be afforded significant weight.

**Impact on Amenity:**

- 9.15. Policy QD27 of the Brighton & Hove Local Plan and emerging Policy DM20 of City Plan Part 2 (which can be given more weight than QD27) 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.
- 9.16. It is acknowledged that public comments on this application have concerns about an existing HMO and the potential for antisocial behaviour from the proposal. While this is noted, the use as small HMO is similar to a family dwelling especially if a C3 dwelling is occupied by a large family. In some cases such



potential noise and noise and disturbance can be described as "functions of the way particular residents behave rather than being inherently dependant on the status of the property as a dwellinghouse or HMO", as noted by an Inspector in a previous appeal decision (APP/Q1445/W/20/3254632 relating to application BH2019/01490 at 64 Islingword Road). Therefore, it would be unreasonable to refuse this development on the assumption that future residents would behave in a problematic manner.

- 9.17. Furthermore, it is noted that a HMO of this size would require licensing by the Council's Private Sector Housing team and thus be required to comply with management standards amongst other requirements. Additionally, the granting of this planning permission would not prohibit the Environmental Health team acting against 'statutory nuisance' under the Environmental Protection Act 1990 if this was required in the future.
- 9.18. The proposed extension would be positioned away from the boundary and is not considered to have any significant adverse impact on the residential amenity of neighbouring properties.
- 9.19. Accordingly, the proposed use of the property as a small HMO for up to six persons is not detrimental to neighbouring amenity or the amenity of the area and in an area with a low concentration of HMOs. Therefore, the proposal is considered in accordance with polices CP21 of the City Plan Part One, QD27 of the Local Plan and emerging polices DM7 and DM20 of the City Plan Part Two.

**Sustainable Transport:**

- 9.20. The application site is within the Coldean neighbourhood which has bus links to the centre of Brighton and towards Hollingbury (5B and 24 routes). These bus routes would link with train stations throughout the city.
- 9.21. The loss of the garage would result in the net loss of a car parking space, but this would be in accordance with standards set out in SPD14. The transport Officer has also noted that it would be possible to park on street and that overspill parking would not be a reason to refuse the application. The site lies within one of the city's match day parking zones so while it is within a CPZ, this only operates on match days and events days at the AMEX Stadium. The area is not considered to be under significant parking stress at other times.
- 9.22. The application submission includes dedicated cycle parking in a timber cycle store. There would be three Sheffield stands which would allow for the parking of up to six bicycles at any one time. The transport officer has requested that the implementation of the cycle store shown should be secured by condition.
- 9.23. The plans also include the provision of refuse and recycling storage within the property boundary, a condition will be added to secure this to prevent bins being stored on the public highway (other than on collection days) and causing an obstruction.

- 9.24. Accordingly, the development, subject to the recommended cycle parking conditions, the development is considered acceptable in relation to transport matters.

Biodiversity:

- 9.25. The Council has been seeking to improve ecological outcomes within the city by securing minor amendments to approved schemes to increase biodiversity contributions. Therefore, a condition is recommended to be added to require a bee brick to be incorporated into the build and improve biodiversity outcomes in line with policy CP10 Biodiversity and SPD11 Nature Conservation and Development.

Archaeological Notification Area (ANA)

- 9.26. The site falls within an archaeological notification area. The proposed extension has been reviewed by the County Archaeologist. Whilst following a review of the Historic Environment record (HER) the risk to archaeological finds has been deemed low, a scheme of archaeological works has been requested via condition with a further condition to ensure that the works are carried out in accordance with the approved scheme.
- 9.27. Further discussion with the County Archaeologist has been undertaken following recent reports that works to construct the extension have begun on site, these have now stopped after topsoil was removed. The above requested conditions would need to be discharged if the application is approved prior to any further works on the extension commencing.
- 9.28. Subject, to the recommend conditions to secure archaeological investigation and scheme of works the development would be in accordance with DM31 of the emerging City Plan Part Two, which has more weight than policy HE12 of the Local Plan.

**Conclusion:**

- 9.29. This is a site where there are not more than 10% of residential properties within a 50m radius in HMO use, thereby complying with policy CP21 which supports mixed communities. The proposed standard of accommodation for six occupiers is considered acceptable, and the likely impact on neighbouring amenity would not be sufficiently harmful to warrant refusal. No significant transport concerns have been identified, and the scheme would not harm buried heritage features or biodiversity. Accordingly, the application is recommended for approval, subject to conditions restricting any of the communal areas being lost to bedroom space; and requiring the implementation of the cycle parking and archaeological investigation prior to further ground works.

- 10. EQUALITIES**  
None identified.

- 11. CLIMATE CHANGE & BIODIVERSITY:**

- 11.1. The development would make use of an existing building in a sustainable location close to the universities and would provide cycle parking facilities.

