

<u>No:</u>	BH2020/02417	<u>Ward:</u>	Preston Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Flat 2 159 Ditchling Rise Brighton BN1 4QR		
<u>Proposal:</u>	Change of use from single dwelling (C3) to flexible/dual C3/C4 use as single dwelling (C3) or a three bedroom small house in multiple occupation (C4).		
<u>Officer:</u>	Rebecca Smith, tel: 291075	<u>Valid Date:</u>	01.09.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	27.10.2020
<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>	Ms Rubina Altaf C/O 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.

Plan Type	Reference	Version	Date Received
Location and block plan	001		1 September 2020
Proposed Drawing	7058/020	Rev A	6 October 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 approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplans, drawing no 7058/020 Rev A, received on 6th October 2020 and shall be retained as such thereafter. The layout of the kitchen and 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.
4. The small HMO (C4) hereby approved shall only be occupied by a maximum of three (3) persons.

Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.

5. The development hereby approved shall not be occupied until refuse and recycling storage facilities have been installed to the front of the building 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.

6. The dwelling shall be occupied as either a dwelling (C3) or as a small House in Multiple Occupation (C4) unless otherwise agreed in writing by the Local Planning Authority.

Reason: As this matter is fundamental to the acceptability of the permission hereby approved.

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 application relates to the first floor, second floor, and roof space of a two storey over basement property on the northern side of Ditchling Rise. The loft of the property has been converted to provide additional accommodation, with a rooflight in the front roof slope and a conservation-style dormer window on the rear roof slope. The property is not listed, and it does not fall within a conservation area.
- 2.2. The application seeks planning permission or the change of use from a dwellinghouse (planning use class C3), to a flexible/dual use as either a dwellinghouse or a small, three-bedroom house in multiple occupancy (HMO)(planning use class C4). There are no external alterations proposed as part of the proposal.
- 2.3. The application site is located within the Preston Park ward which has been subject to an Article 4 Direction restricting the 'permitted development' right to change the use of land from C3 (dwellinghouse) to C4 (house in multiple occupancy) since this restriction was extended city wide from 3rd June 2020. Planning permission is therefore required to change the use of the site from C3 to C4 use, or as is proposed, to a flexible C3/C4 use.

3. RELEVANT HISTORY

None relevant

4. REPRESENTATIONS

4.1. **Six (6)** letters have been received, objecting to the proposed development for the following reasons:

4.2. Additional traffic and demand for parking

- Detrimental effect on property value
- Poor design
- Noise/ residential amenity
- Increased demand for local and community resources
- Loss of family home, increasingly transient community, over-concentration of HMOs/Air BnB on street.
- Precedent
- Increase in rubbish and recycling
- Fire escape/fire safety
- Increased risk of anti-social behaviour

4.3. **Two (2)** letters have been received, supporting the proposed development for the following reasons:

- Residential Amenity
- Increased density would make more efficient use of built up area and help with the shortage of accommodation.
- Better sized bedrooms
- Good design

5. CONSULTATIONS

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

5.2. **Planning Policy:** No comment

5.3. **Private Sector Housing :** Comment

Private Sector Housing have advised that should the application be approved then a HMO licence would need to be applied for and that the Council's HMO standards can be found on the Council website for guidance.

5.4. **Sustainable Transport** - Verbal comment: No objection

Site is located within a CPZ. CPZ J has a resident's parking permit uptake of 89% (based on the average of the last 12 months of available data). The parking zone is therefore considered to be overcapacity and in the absence of a parking survey to demonstrate capacity the Highway Authority requests that the right to apply for parking permits is restricted by way of a planning condition. This is because the future HMO use could create additional parking pressure.

- 5.5. The Highway Authority does not wish to request cycle parking on this occasion as the site is too constrained.
- 5.6. The estimated future trips of the site are unlikely to be significantly greater if the use changes to a small HMO use in the future.

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
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

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 to be provided for future occupiers, the effects of the proposed change of use on neighbours' amenity, 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, which is considered sufficient to assess the acceptability of the proposal.

Principle of Change of Use:

8.3. The application seeks consent for the change of use from a dwellinghouse (planning use class C3) to a dwellinghouse or small HMO (flexible planning use class C3/C4 use). This would allow the use to change back and forth between C3 and C4 for up to ten years, (as permitted) under Class V of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, a time period which is recommended to be secured by condition.

8.4. Given that the property as existing is already in C3 use, the main consideration is whether its use as a HMO (C4 use) is acceptable.

8.5. 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."*

8.6. A mapping exercise has been undertaken which indicates that there are 103 properties within a 50m radius of the application property, two of which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 1.94%.

- 8.7. Based on the existing percentage of neighbouring properties in HMO use, which is less than 10%, the principle of change of use to a three-bedroom HMO (C4) would not be in conflict with the aims of policy CP21.

Standard of Accommodation:

- 8.8. The existing layout comprises a kitchen and separate living room to the front of the first floor with two rear bedrooms separated by a bathroom. In the converted loft space is a third bedroom and separate WC.
- 8.9. The proposed change of use to a flexible HMO/dwelling use includes minor revisions to the internal layout. The first floor bathroom would be moved to the roof space, with the area replaced with a small WC and additional space for the rear bedroom
- 8.10. The communal areas (living room and kitchen) provide a total of 20.2sqm space comprising a kitchen and a separate lounge. The kitchen provides enough space for the three proposed residents of the HMO to cook together and provides ample storage for food and cooking equipment. Similarly, the kitchen and separate lounge would provide sufficient space for a family to cook, prepare food, dine together and relax together.
- 8.11. If, however, the communal space was converted to a bedroom in the future, this would restrict the level of shared space available to occupants. Therefore, a condition is recommended restricting the use of the communal areas to ensure that alterations to the layout are not made later that reduces the amount of communal space provided for the occupiers.
- 8.12. The three bedrooms would range in size from 8.44sqm to 15.493sqm, including, in the loft, space with a head height of greater than 1.5m from the internal floor level. 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. Furthermore, having reviewed photographs of the existing layout a furnished layout can be achieved throughout that is not cramped or restrictive for an adult to live comfortably.
- 8.13. The virtual site visit photos also 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.
- 8.14. This assessment has been made on the property as a three-bedroom, three person HMO. A condition is recommended restricting the occupancy to three people. This is because, despite two of the rooms being sufficient as double bedrooms, the kitchen is very small and as a space for five people to prepare food and allow for the storage of food and cooking equipment it would be very cramped and would fail to accord with paragraph 127F of the NPPF and Local Plan policy QD27.

- 8.15. 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.

Impact on Amenity:

- 8.16. 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.
- 8.17. The part change of use from a family dwelling house to small house in multiple occupation will result in a change to the character of the residential property as occupancy by unrelated individuals can result in more intensive activity. The nature of the HMO use could result in more comings and goings from three unrelated occupiers, as well as an uplift of activity within the property itself. However, as a small HMO, it is considered that the impact would not amount to significant harm to neighbouring amenity, particularly when compared with a large family living in the property, to warrant refusal of the application.
- 8.18. As noted above, 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.

Sustainable Transport:

- 8.19. The site is in a well-connected area, with London Road Railway Station a short walk from the site and good public transport links from the buses that stop on Ditchling Road.
- 8.20. In terms of cycle parking, this has not been sought by the Highway Authority on this occasion as the site is too constrained with it being an upper maisonette. The Highway Authority are also not concerned that the proposed flexible C3/C4 use would lead to a significant uplift in trips to and from the site that would cause harm to the local transport network. It would not therefore be appropriate to restrict the development on this basis.
- 8.21. The Highway Authority has also requested that the development is restricted to not have the right to apply for parking permits as it is located within a CPZ. CPZ J is currently over capacity at 89% (according to the last 12 months of available data average). The request from the Highway Authority is noted; however as no further bedrooms are being created, it is not considered necessary or justified to impose a condition to restrict parking permits as the proposal would not materially alter the existing situation. Further, the number of parking permits within the CPZ issued is already restricted in number by measures outside the planning process.

Other Considerations:

- 8.22. A number of representations have identified increased rubbish as a concern. However, while three adults living in a HMO may cause a slight increase in waste production, this could equally alter with a change in occupancy or occupant circumstances in a dwelling, such as having children or becoming affluent. It is not, therefore, considered sufficient to warrant refusal, though a condition has been attached to ensure that refuse and recycling facilities are provided at the front of the property. The development is therefore acceptable in relation to refuse and recycling.

9. EQUALITIES
None identified