

<b><u>No:</u></b>	<b>BH2017/03076</b>	<b><u>Ward:</u></b>	<b>Westbourne Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>2 - 4 Sackville Road Hove BN3 3FA</b>		
<b><u>Proposal:</u></b>	<b>Conversion of care home (C2) into residential apartment building comprising 4no flats at 2 Sackville Road and a nine bedroom house in multiple occupation (Sui Generis) at 4 Sackville Road with associated alterations.</b>		
<b><u>Officer:</u></b>	Luke Austin, tel: 294495	<b><u>Valid Date:</u></b>	25.09.2017
<b><u>Con Area:</u></b>	Pembroke & Princes	<b><u>Expiry Date:</u></b>	20.11.2017
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Mr Jogi Vig 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor Plans Proposed	599/04 A		25 September 2017
Floor Plans Proposed	599/05 B		23 September 2017

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. Prior to first occupation of the development hereby permitted, pedestrian crossing improvements (dropped kerbs with paving and tactile paving if appropriate) shall have been installed at the junction of and across Pembroke Avenue with New Church Road and at the junction of and across Pembroke Avenue with Pembroke Crescent (south) and at the junction of and across Pembroke Avenue with Pembroke Crescent (north).

**Reason:** To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7, TR11 and TR12 of the Brighton & Hove Local Plan & CP9 of the Brighton & Hove City Plan Part One.

4. Notwithstanding the approved plans, prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall 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.

5. The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.

**Reason:** This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation, to ensure that the development does not result in overspill parking and to comply with policies TR7, QD27 and HO7 of the Brighton & Hove Local Plan and policy CP9 of the Brighton & Hove City Plan Part One.

6. The development hereby approved shall be implemented in accordance with the proposed layout detailed on drawing nos. 599/05 B received on 23 November 2017 and 599/04 A received 25 September 2017 and shall be retained as such thereafter. The rooms within the HMO annotated as communal kitchen / dining room and communal living room shall be retained as communal space and none of these rooms shall be used as bedrooms at any time.

**Reason:** to ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.

7. The HMO unit hereby approved shall only be occupied by a maximum of nine persons.

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

8. Access to the flat roof over the ground floor single storey section to the rear from the HMO and flats 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.

9. Prior to first occupation of the development hereby approved a Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This should include details relating to site management, behaviour

and conduct of future occupiers, details of how parking will be allocated and enforced and waste/refuse management.

**Reason:** To safeguard the amenities of occupiers of the adjoining properties, to ensure parking provisions are effectively managed and to comply with SU10 and QD27 of the Brighton and Hove Local Plan, Policy CP9 of the Brighton and Hove City Plan Part One and SPD14.

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 site relates to a site formerly occupied by a pair of semi-detached two storey dwellings located to the west of Sackville Road close to the junction with Church Road / New Church Road. The two buildings were merged into one site by knocking through the internal party walls and the construction of single storey rear extensions in order to facilitate a care home.
- 2.2 In the wider context the site is set within a group of substantial semi-detached houses with projecting bays and outriggers. The east of Sackville Road comprises a mixture of terraced and semi-detached properties. The site falls within the Pembroke and Princes Conservation Area however it is not covered by an Article Four Direction.
- 2.3 The application seeks permission for the conversion of the building into four flats within no.2 Sackville Road and a 9 bedroom House in Multiple Occupation (Sui Generis) within no.4 Sackville Road. The conversion would involve internal alterations only.
- 2.4 Amendments have been sought to the original submission by way of converting flat 4 to a studio rather than a 1 bedroom flat in order to provide a better standard of accommodation, amendments to one of the ground floor flats in addition to altering the layout of the HMO in order to improve the overall standard of accommodation and usability for occupiers. The planning agent has agreed to the amendments and the amended plans will be identified on the late representations list.

**3. RELEVANT HISTORY**

**BH2009/00677** - Conversion of existing nursing home into nine self-contained flats. Refused 01.06.2009 for the following reasons:

1. The site is currently operating as a care home for the elderly. The applicant has failed to demonstrate that the existing care home facilities do not comply with, or are realistically capable of reaching, the respective standards set out for residential care / nursing homes. The site is still registered and receiving

additional residents from the city council and therefore it is still viewed as supplying a valuable resource to the city. Therefore the loss of residential care facilities is considered contrary to policy HO11 of the Brighton and Hove Local Plan.

2. The change of use relies on a number of internal bathrooms which have no natural light and ventilation. As such the development will place unacceptable dependence on artificial light and mechanical ventilation. In addition no information has been submitted to demonstrate that the conversion of the building can meet the relevant Ecohomes standards. The development is contrary to policy SU2 of the Brighton and Hove Local Plan and Supplementary Planning document on Sustainable Building Design SPD08.

**BH2007/04262** - Conversion of existing nursing home into 5 no. 2 bed flats and 4 no. one bed flats (resubmission of BH2002/00794/FP). Refused 29.08.2008.

**BH2002/00794/FP** - Conversion of existing nursing home into 9 self-contained flats. Approved 29.11.2002.

#### 4. REPRESENTATIONS

**Seventeen (17)** letters has been received objecting to the proposed development for the following reasons:

- It will devalue my property.
- Will add to parking problems
- We do not need to get rid of care homes
- Loss of privacy
- Noise at night
- There are too many HMOs in the area
- Bedrooms are too small within HMO
- Communal garden is inadequate for 9 occupants
- Risk of anti-social behaviour
- It will affect the character and the tone of the area
- Overdevelopment
- Inaccurate plans
- Below minimum space requirements
- No means of fire escape
- Will set a precedent for further schemes
- Congregation of potentially large numbers of people within gardens
- Inadequate bin storage / refuse area
- Not in keeping with the area
- Overcrowding
- Loss of care home beds
- Would allow up to 32 people to occupy building
- Communal bike storage located adjacent to neighbours

A petition has also been provided by local residents with a total of **Twenty Five (25)** signatures objecting to the proposal for the following reasons:

- Detrimental to adjoining properties
- It will not preserve the Conservation Area
- Contrary to local plan policies
- No on-site parking
- It will increase local parking demand
- It will increase density and create noise disturbance / anti-social behaviour
- Insufficient garden space for nine bedsits
- Contrary to CP21

## 5. CONSULTATIONS

### 5.1 Private Sector Housing: No objection

The proposed layout of No.4 Sackville Road would be a licensable HMO and a valid HMO Licence application would need to be submitted to the council before occupation. The proposal would need to comply with the councils HMO standards.

The 3 bedroom 1st/2nd floor proposed maisonette in No.2 Sackville Road may be licensable as an HMO depending on how it is occupied.

### 5.2 Planning Policy: No objection

It is considered the principle of the proposal can be supported based on the information submitted, subject to comments from Social Care & Health and other consultees and a detailed check of the accommodation balance in the surrounding.

The provision of 4 residential units of different sizes is welcomed and would contribute towards the city's housing target as set out in Policy CP1 of the City Plan Part One. The proposed HMO would also provide a form of residential accommodation.

### 5.3 Sustainable Transport: No objection

Recommended approval as the Highway Authority has no objections to this application subject to the inclusion of the necessary conditions securing highway improvements and cycle parking.

### 5.4 Adult Social Care No objection

Adult Social care would support this change of use application. Brighton and Hove are aware that the requirement for care homes that are only able to provide residential care in environments that cannot support increasing physical or mental health needs is decreasing. The care needs assessment highlights the limitations of the current environment to meet these needs therefore we would support this change.

## 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);
- 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 One

SS1 Presumption in Favour of Sustainable Development  
CP1 Housing delivery  
CP2 Sustainable economic development  
CP3 Employment land  
CP7 Infrastructure and developer contributions  
CP9 Sustainable transport  
CP12 Urban design  
CP14 Housing density  
CP15 Heritage  
CP19 Housing mix  
CP21 Student housing and Housing in Multiple Occupation

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

TR7 Safe Development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development  
HO13 Accessible housing and lifetime homes  
HO20 Retention of community facilities

#### Supplementary Planning Documents:

SPD14 Parking

## 8. **CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the loss of the existing use, principle of the proposed uses, the impact upon neighbouring amenity, the standard of accommodation which the use would provide in addition to transport issues and the impact upon the character and appearance of the property and the surrounding area.

8.2 The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2016 SHLAA Update (February 2017) which demonstrates a 5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.

8.3 **Principle of development:**

The application seeks permission for the conversion of a vacant care home into two residential sites. No. 2 Sackville Road would consist of four flats whilst no. 4 would be converted into a 9 bedroom sui generis HMO.

8.4 Loss of The Existing Use

The existing use of the building is as a care home (C2). The application follows a previous submission (BH2009/00677) which refused for the following reason relating to the loss of the existing use:

1. The site is currently operating as a care home for the elderly. The applicant has failed to demonstrate that the existing care home facilities do not comply with, or are realistically capable of reaching, the respective standards set out for residential care / nursing homes. The site is still registered and receiving additional residents from the city council and therefore it is still viewed as supplying a valuable resource to the city. Therefore the loss of residential care facilities is considered contrary to policy HO11 of the Brighton and Hove Local Plan.
2. Retained Brighton & Hove Local Plan policy HO11 covers new residential care homes and retention of existing facilities. It advises that permission will not be granted for homes which comply with or are realistically capable of reaching the respective standards set out for residential care or nursing homes. In the event of the loss of such a home being considered acceptable it seeks that the priority will be to secure additional housing units or supported housing for people with special needs. The supporting text makes it clear that the additional housing units can be unfettered i.e. not necessarily for people with special needs.
3. Since the refusal of the previous application BH2009/00677, which sought conversion of the nursing home into nine flats, the care/nursing home has closed due to high vacancy rates.
4. In general smaller care homes appear to be less viable than larger ones. The reference to 'respective standards' would now refer to the regulations issued in 2014 under the Health & Social Care Act 2008, which identifies general issues in relation to 'Premises and equipment'. Whilst these are not prescriptive to the extent that they require specific room sizes, there is a requirement that rooms are suitable for the purpose for which they are being used and appropriately located for the purpose for which they are being used.

5. The application is supported by a report setting out why the property is no longer realistically and/or viably capable of meeting respective standards. The report details that the nature of the demand for care has changed over time and that the majority of people requiring care are generally older, frailer and more dependant as the government has placed an emphasis of maintaining people in their homes. As a result the services provided must be capable of accommodating specialist care services.
6. As of 25th March 2017 the home had seven vacancies and it was registered for 20 occupants. It was therefore not considered viable by the occupier to remain operational. In consultation with BHCC Adult Social Care the applicant closed the home.
7. The report details that the closure of the care home was due to a lack of referrals from the Council for residential care which formed all of the referrals to the home. Therefore due to the lack of demand the site ceased to operate. If the site were to re-open it would be required to comply with the Fundamental Standards Regulation 15 of the Health & Social Care Act 2008 and the current Regulations. The report also makes an assessment of the current accommodation and confirms that in its existing state the site would not meet the required standard for a number of reasons including limited wheelchair access to a number of rooms, inadequate fire exit route, restricted usability within several en-suite facilities and restricted accessibility for supported mobilisation over the majority of the site. The report concludes that the restrictions and conditions of the existing site would severely limit the upgrading of the entire building to an appropriate modern standard and the site would be unable to cater for specialist care meaning that the continued use as a care home is not considered viable.
8. The planning policy team have confirmed that, based on the information submitted and subject to confirmation by Adult Social Care, the loss of the care home can be justified.
9. Adult Social Care have identified that the demand for care homes that cannot support increasing physical or mental health needs is decreasing and on this basis no objection is raised to the conversion.
10. The Proposed Flats  
Policy HO11 states that where the loss of a residential / care home is considered acceptable, the priority will be to secure additional housing units or supported housing, for people with special needs.
11. Whilst the proposal is not seeking to provide housing for people with special needs, the planning policy team have confirmed that this is not considered to be a significant conflict with policy HO11, which indicates this to be a priority not a requirement. The provision of 4 residential units is welcomed and would contribute towards the city's housing target as set out in Policy CP1 of the City Plan Part One.
12. The Proposed House in Multiple Occupation



The proposal would allow occupation of the property as a Sui Generis HMO providing accommodation for 9 unrelated individuals who share basic amenities including a kitchen, living/dining room.

13. 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.'
  - A mapping exercise has taken place which indicates that there are 107 properties within a 50m radius. One other property has been identified as being in either Class C4, mixed C3/C4 or other types of HMO in a sui generis use within the 50m radius. The percentage of existing HMO's within the designated area is thus 0.93%.
  - Based upon this percentage, which is less than 10%, the proposal to change to a Sui Generis HMO would be in accordance with policy CP21.
14. **Design and Appearance:**  
No external alterations are proposed within this application.
15. **Standard of Accommodation:**  
The flats would be set over three floors with flats 1 and 2 on the ground floor, flat 4 on the first floor and flat 3 forming a maisonette over the part of the first and the second floor.
16. Although the council do not have any adopted space standards the government's Nationally Described Space Standards can be used as a comparative guide of what is expected for new dwellings. The guidance describes that a single storey one bedroom unit should have a minimum floor area of 50m<sup>2</sup> and a single storey two bedroom unit should have a minimum floor area of between 61m<sup>2</sup> and 70m<sup>2</sup> depending on occupancy levels. A two storey 3 bedroom unit should have a minimum floor area of between 74m<sup>2</sup> and 95m<sup>2</sup>.
17. Flats 1, 2 and 3 would all meet the guidance set nationally within the nationally described space standards both in size of units and floor area. Flats 1 and 2 would also benefit from separate gardens.
18. The original submission included flat 4 as a one bedroom flat with a floor area of 45m<sup>2</sup>. As this is below the national guidance and the living room suffered from

restricted usability amendments were sought to create a studio which provides more useable space and better circulation.

20. Overall the standard of accommodation provided within the flats is considered acceptable and would accord with policy QD27 of the Brighton & Hove Local Plan.
21. The HMO would include 9 bedrooms set over three floors, seven of which would have en-suite bathrooms. The final two rooms on the third floor would share a bathroom. Eight of the bedrooms (excluding the en-suite bathrooms) would be over the national standard floor area for a double room ranging from 16m<sup>2</sup> to 22.4m<sup>2</sup> when taking en-suites into account. The ninth bedroom on the third floor would have a floor area of approximately 10.5m<sup>2</sup> and therefore would qualify for a single bed space. Whilst the final bedroom would be fairly restricted if an occupier were to spend the majority of time in the room, the HMO would also include a substantial communal lounge at first floor level in addition to an adequate communal dining room / kitchen at ground floor level.
22. The applicant has indicated that the HMO will be occupied by 9 tenants. Following amendments to the layout it is considered overall, given the sufficient communal space at ground floor level, the garden area and circulation space within the bedrooms whilst taking account of the impact on adjacent neighbours, the standard of accommodation is considered acceptable for the number of occupants proposed. The retention of the communal areas in addition to maximum occupancy shall be secured by condition in order to ensure an acceptable standard of accommodation is maintained.
23. Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Although these standards are secured on new dwellings it is not considered reasonable to request them on a conversion.
24. **Impact on Amenity:**  
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.
25. There have been a number of objections received from neighbouring occupiers with a particular regard to the impact of the proposed development in terms of noise and general disturbance associated with the increased occupancy.
26. The previous use consisted of a 19 bedroom care home in addition to staff facilities and a kitchen operating as one site. The current proposal would split the site into two buildings including four flats with a cumulative figure of 7 bedrooms in addition to a 9 bedroom HMO creating a total of 16 bedrooms.

27. Whilst it is acknowledged that the level of activity associated with a care home would likely be less evident than the proposed use, the previous use would still have generated a significant level of activity given the size of the site, the occupancy and the associated movements of staff and visitors.
28. The proposed use is likely to generate a higher level of disturbance due to the nature of the occupancy due to more frequent comings and goings, different patterns of behaviour and the consequential disturbance, however given the size of the property and plot in addition to the location it is considered that the resultant impact would not be over what could be reasonably expected in this context. The agent has provided a draft management plan which outlines the procedures that will be taken in order to reduce the likelihood of anti-social behaviour in addition to a description of the information / contact details that will be provided to neighbours in order to complain if anti-social behaviour does occur. It is also indicated that full contact details are to be provided in the final management plan. It is therefore recommended that a full management plan should be secured by condition.
29. Furthermore as shown above there is a low proportion (below 1% of properties) of HMOs within the vicinity of the site and on this basis it is not considered that the proposed unit would result in an imbalance within the neighbourhood resulting in significant cumulative harm to neighbouring amenity.
30. It is noted that there are a number of windows at first and second floor levels which would allow views towards neighbouring properties however as the existing windows would be retained and no new openings are proposed it is considered unreasonable to secure obscure glazing. A number of objections have also been raised in relation to the roof access at first floor level and the possibility that it will be used as a roof terrace. A condition is recommended that the roof area shall be used for emergency access only.
31. **Sustainable Transport:**  
SPD14 (parking) states that for this development of 4 residential units in 2 Sackville Road the maximum car parking standard is 6 spaces (4 residential spaces and 2 visitor spaces). For this development of 9 bedrooms the maximum car parking standard is 3 spaces when rounded up (0.25 spaces per bedroom). Therefore the proposed level of car parking (zero spaces) is in line with the maximum standards and is therefore deemed acceptable in this case.
32. The proposed development would result in a greater demand for resident parking in an area of high demand where there is a controlled parking zone scheme in place. The applicant has not submitted a parking survey to demonstrate that there is capacity for additional demand in surrounding streets therefore a condition is recommended to remove rights to resident permits to ensure that harm would not be caused.
33. Although the applicant has referred to walking in their supporting evidence, they have not referred to mobility and visually impaired access. Although footways in the vicinity of the site have been improved over the years by developer

contributions, obligations and government funds there are still junctions along Pembroke Avenue that for the applicant's benefit need footway improvements (dropped kerbs in particular) to extend the transport network that policy allows the Highway Authority to request. Also, there are accessible bus stops in the vicinity of the site but mobility scooters are not permitted on buses (due to risks in an accident) hence the further importance of dropped kerbs for this growing mode of transport.

34. On this basis, dropped kerbs with paving and tactile paving if appropriate at the junction of and across Pembroke Avenue with New Church Road and at the junction of and across Pembroke Avenue with Pembroke Crescent (south) and at the junction of and across Pembroke Avenue with Pembroke Crescent (north) shall be secured by condition. This is to improve access to and from the site to the various land uses in the vicinity of the site, for example education, employment, shops, postal services, leisure (including tourism), medical, other dwellings in the wider community and transport in general.
35. SPD14 states that a minimum of 1 cycle parking space is required for every residential unit with up to 2 beds and 2 for 3 plus beds and 1 space per 3 units for visitors after 4 units. For this development of 3 residential units with up to 2 beds and 1 residential unit with 3 beds the minimum cycle parking standard is 5 cycle parking spaces in total (5 for residential units and 0 visitor spaces). The applicant has proposed a cycle store in the form of a proposed building at the rear of 4 Sackville Road however, the Transport Team have identified that this is not a convenient location for both 2 and 4 Sackville Road and further than that there is a lack of numbers and detail (lighting to and in, method of security, paving to and from for example) therefore cycle parking is requested by condition.

## **9. EQUALITIES**

- 9.1 None identified