

<b>No:</b>	<b>BH2019/02639</b>	<b>Ward:</b>	<b>Regency Ward</b>
<b>App Type:</b>	<b>Full Planning</b>		
<b>Address:</b>	<b>8 - 9 Kings Road Brighton BN1 1NE</b>		
<b>Proposal:</b>	<b>Change of use from restaurant (A3) at ground floor and HMO on first and second floors to an assessment hub for homeless people at ground floor and associated sleeping accommodation at first and second floors (Sui Generis). Removal of extract ductwork at rear and alterations to front elevation, including reinstatement of original timber fascia, installation of timber panelled door. New roof coverings and cladding and other associated works.</b>		
<b>Officer:</b>	Russell Brown, tel: 293817	<b>Valid Date:</b>	04.09.2019
<b>Con Area:</b>	Old Town	<b>Expiry Date:</b>	30.10.2019
<b>Listed Building Grade:</b>	N/A	<b>EOT:</b>	
<b>Agent:</b>	Brighton And Hove City Council   Property And Design   1st Floor Hove Town Hall   Hove   BN3 4AH		
<b>Applicant:</b>	Brighton And Hove City Council   2nd Floor   Hove Town Hall   Hove BN3 4AH		

## 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		4 September 2019
Proposed Drawing	003		4 September 2019
Proposed Drawing	004		4 September 2019
Proposed Drawing	005		4 September 2019

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 property the subject of this approval shall only be occupied by a maximum of twelve (12) persons; six on 'crash beds' on the ground floor and one per room on the upper floors.

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

4. All rooms annotated as service provision, reception room, assessment room, kitchen, staff office or store as set out on drawing no. 003 received on 4th September 2019 shall be retained as such and shall not be used as a bedroom at any time.

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

5. Prior to first occupation a full management plan and signed Community Responsibility Protocol for the subject property 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 and details of waste / refuse management. The occupation and use of the building shall be in strict accordance with the approved management plan and Community Responsibility Protocol.

**Reason:** To safeguard the amenities of occupiers of the adjoining properties and to comply with Policies SU10 and QD27 of the Brighton and Hove Local Plan.

6. The external works hereby permitted shall not take place until full details of the proposed replacement external door within the shopfront including 1:10 scale elevations and sections have been submitted to and approved in writing by the Local Planning Authority. The door shall be of traditional timber panel construction. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

**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 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

7. The side elevation door towards the rear of the ground floor shall not be opened or otherwise used other than for fire escape purposes.

**Reason:** To avoid residents of staff from using the rear courtyard as a smoking or amenity area causing an adverse impact on neighbouring amenity in compliance with Policy QD27 of the Brighton & Hove Local Plan.

8. 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.

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. In order to be in line with Policy TR14 Cycle Access and Parking of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22 or will consider other proprietary forms of covered, illuminated, secure cycle storage including cycle stores, "bunkers" and two-tier systems where appropriate.
3. With reference to Condition 5, the applicant is advised that the management plan should include out of hours numbers in the management plan and outline how local residents can escalate issues.

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1. Planning permission is sought to change the use of the existing restaurant (Use Class C2) on the ground floor and House of Multiple Occupation on the first and second to an assessment hub for homeless people at ground floor and associated sleeping accommodation at first and second floors (Sui Generis). This would involve alterations to the front elevation, including the reinstatement of an original timber fascia and the installation of timber panelled door, the removal of extract ductwork and cladding of the roof of the addition at the rear as well as a new roof covering.
- 2.2. The site is on the north side of Kings Road, a mixed use street running in-between East Street to the east and the A259 with Queens Hotel directly to the south. The property itself comprises two adjacent three-storey terraced buildings which have been combined into a single property. The ground floor is a former restaurant, while the two upper floors were most recently in use as an HMO with five bedrooms.
- 2.3. The site is located in the Old Town Conservation Area, but is not subject to any Article 4 directions, including for HMOS, and there several listed buildings, including directly opposite and at the rear of 8 and 9 East Street. It is also within Controlled Parking Zone (CPZ) Z and the Bartholomews Archaeological Notification Area. The site is, however, outside the Prime Retail Frontage,

### **3. RELEVANT HISTORY**

- 3.1. BH2004/00970/FP: Change of use from A1 (shops) to A3 (food and drink) at 8 Kings Road and alterations to shop front and entrance at 8 and 9 Kings Road. Refused 20 May 2004 and an appeal dismissed 14 March 2005.
- 3.2. BH2006/03023: Change of use from retail (class A1) to mixed use of retail and cafe (classes A1 & A3). Approved 2 November 2006
- 3.3. BH2015/04199: Change of use of ground floor from retail (A1) to restaurant (A3) and installation of extraction flue to rear (Part Retrospective). Approved 17 February 2016
- 3.4. PRE2018/00358: Change of use of ground floor from existing A3 to a 24 hour homeless centre providing food plus accommodation on the first & second floors. Advice issued 19 December 2018

#### **Of relevance:**

- 3.5. BH2019/02158: Change of use from nursing home (C2) at No.15 Caburn Road and Sui Generis HMO at No.203 Dyke Road to 20no bedroom short term accommodation & services for the homeless (Sui Generis). Alterations to form single building, replacement ground floor windows & door to west elevation and associated works. Approved at Planning Committee 6 November 2019 and decision issued 13 November 2019.

### **4. REPRESENTATIONS**

- 4.1. Eleven (11) representations have been received objecting to the proposed development for the following reasons:
  - Whilst the notion that homeless people need help and require sheltered facilities to deliver this should be supported, such a facility here would be completely at odds with this area, which should be the touristic heart of the city. It would only have a detrimental effect, dragging the area and the city further down, including those who work, live and visit in close proximity to East Street.
  - The proposed use is likely to cause anti-social behaviour, begging (which is becoming more aggressive), litter and drug dealing in the streets, would generally have a detrimental impact on businesses and would devalue the Lanes district.
  - This location in a high-end shopping area should be reserved for retail and restaurant business.
  - It would be highly irresponsible to place such a facility in this area and it would ruin lives. There are two 24-hour off licences, nightclubs, late night bars and a strip club close by.
  - If planning permission is approved, the number of closed retail units will only increase as the businesses in the immediate vicinity will not survive and 50 people will be made unemployed.
  - The development would exacerbate the homeless issue in the area.
  - Approving this application would be unfair, misjudged and morally reprehensible.

- It is not clear how many people will be accommodated. The plans show six single bedrooms which would probably be acceptable, but the documents mention shared rooms which are not shown.
- The room on the top floor should not be a dormitory as the wall between numbers 8-9 and 7 is extremely thin and noise transferred when it was a HMO.
- The plans show the back door in place, which leads out into the secure residential courtyard which would not be suitable as a place to smoke as there are families and elderly residents there. It should be guaranteed that the residents would not have access to this.
- It is very important that this facility is both discreet and tightly managed.
- This project should not be proposed on a direct route from the seafront to the Royal Pavilion and The Dome and also 50 yards from the Palace Pier where tourists could potentially be met by homeless people as they leave the seafront towards the Laines. Locating this facility in Kings Road would highlight the homelessness problem in the city.
- There must be other less prominent locations that can be considered instead.

4.2. **Councillors Phillips** (Regency Ward member) supports the proposal and requested that it be determined by the Planning Committee, a copy of the letter is attached.

4.3. **Councillors Brennan, Gibson, Heley and Williams** (not Regency Ward members) support the proposal.

## 5. CONSULTATIONS

5.1. Planning Policy: No objection since Local Plan Policy SR4 does not strictly apply, the application would comply with the criteria of HO10 relating to accommodation for homeless people and the loss of the HMO is acceptable as the proposal meets an identified housing need.

5.2. Highway Authority: No objection subject to recommended conditions relating to restriction of car parking permits for future occupiers and details of secure cycle storage.

## 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. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

6.3. 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 Joint Area Action Plan (October 2019)

6.4. 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
CP8	Sustainable buildings
CP12	Urban design
CP15	Heritage

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

TR14	Cycle access and parking
SU10	Noise nuisance
QD5	Design - street frontages
QD10	Shopfronts
QD14	Extensions and alterations
QD27	Protection of amenity
HO8	Retaining housing
HO10	Accommodation for homeless people
HO14	Houses in multiple occupation (HMOs)
HE6	Development within or affecting the setting of conservation areas

#### Supplementary Planning Documents:

SPD02	Shop Front Design
SPD09	Architectural Features
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

#### Other Documents:

East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan - Policy WMP3d and WMP3e

## 8. **CONSIDERATIONS & ASSESSMENT**

8.1. The main planning considerations material to this application are the principle of development, the design of the alterations, the impact on heritage assets, the amenity of neighbouring properties and on highways as well as the standard of accommodation to be provided.

Principle of development

- 8.2. Local Plan Policy SR4 states that "the proposed use should still attract pedestrian activity to the centre and should not have a significantly harmful impact on the amenity of the area". In this case, since this is an A3 unit the above policy would not apply, but it is considered that were the proposed change of use to occur, a healthy mix of uses would remain since the Kings Road frontage would consist of A1, A3, A4, A5 and Sui Generis. Therefore, a change of use from A3 to Sui Generis at this location would not lead to a predominance of non-retail uses within this part of the Regional Centre.
- 8.3. Local Plan Policy HO8 states that planning permission will not be permitted for proposals involving a net loss of units of residential accommodation unless the residential accommodation is classified as unfit for human habitation and cannot be made fit for habitation; separate access to the dwellings is impracticable; the change of use is the only way of preserving a listed building or other building of architectural or historic interest; the proposal would result in a net gain in affordable housing; or the previous use of a building is a material consideration.
- 8.4. In this case it is considered that the second criteria applies in that there is not currently a separate access to the residential accommodation and providing one to the proposed sleeping accommodation at first and second floors would result in changes to the shopfront that would likely be unacceptable on heritage and design grounds.
- 8.5. Local Plan Policy HO10 outlines that planning permission will be granted for the provision of residential accommodation, including temporary accommodation, to meet the needs of homeless people, provided that the site is well served by local community services, public transport and walking and cycling routes. In this case, the site is a four minutes' walk to the Young Peoples Centre / Allsorts Youth Project who support 13-25 year olds and is two minutes from the Old Steine branch of the Brighton YMCA whilst the North Road premises is 12 minutes away. Furthermore, the subject property is 14 minutes from Brighton train station, it is adjacent to pedestrian footways and cycling routes are next to the A259. The proposal would therefore be compliant with this policy.
- 8.6. It is worth noting that Policy HO10 complements one of the Council's objectives to providing move-on accommodation for those who no longer need supported accommodation, thus freeing specialist stock, as proposed by this application.
- 8.7. Local Plan Policy HO14 deals with the loss of HMOs and / or non self-contained accommodation that comply with, or are realistically capable of reaching, the Housing Acts standards. However, there are extenuating circumstances where it can be demonstrated that the proposal meets an identified housing need, and in this case it is clear that temporarily housing, assessing and helping individuals that are homeless into permanent, safe accommodation meets one of the Council's main housing aims. This is considered sufficient to overcome the loss of a four bedroom HMO,

particularly since the proposal would provide accommodation for young people and people who are socially or economically disadvantaged who would otherwise be homeless.

- 8.8. The location of the proposed use is important, and this issue has been raised by local residents in their representations. The applicant has therefore submitted a list of other properties considered for the proposed homeless assessment hub and sleeping accommodation and reasons why each were dismissed. The main reasons were size, location, 24 hour availability, disabled access, the capital investment required and insufficient facilities. Officers accept the reasoning and rationale provided, and note that the subject site is the only property available that can meet the identified requirements, these including shower and toilet facilities; a kitchen / cooking facilities and shared rooms.
- 8.9. Finally, it is noted that the description of development was altered to remove to remove the word 'temporary' as there is no planning definition of this term and also '28 days' since it is clear that some of the inhabitants would stay longer than that on the second floor as this would be interim accommodation option whilst longer term accommodation is being pursued.
- 8.10. As such, it is clear that the loss of the existing uses and the provision of an assessment hub for homeless people and associated sleeping accommodation is acceptable. However, the acceptability or otherwise of the scheme is subject to the design of the alterations, the impact on heritage assets, neighbouring amenity and on highways. These matters are discussed below.

#### Design and Heritage

- 8.11. When considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 8.12. Case law has held that the desirability of preserving the character or appearance of a conservation area must be given "considerable importance and weight".
- 8.13. Various alterations are proposed to the subject property, both to help facilitate the proposed change of use and to replace poor condition or redundant elements.
- 8.14. The existing shopfront is considered to be traditional and preserves the appearance of the conservation area. The proposed change to its form by removing the recessed entrance door and installing a partially glazed door flush with the glazed façade would result in harm to the building itself and the heritage asset. However, it is considered that this is less than substantial and is outweighed by public benefits; one being providing assessment hub for homeless people and other allowing access for wheelchair users. Details of the proposed door are recommended to be conditioned. The other proposed



change to the shopfront is the removal of the visually intrusive restaurant sign and the reinstatement of a timber fascia, which is considered to better reveal and enhance the conservation area.

- 8.15. Also to the front of the building would be the replacement of the existing natural roof slates with dark grey Spanish slates, which are considered to provide an acceptable match for the existing. No objection is raised to the installation of replacement clay ridge tiles. The use of Code 6 lead cladding to the chimneys rather than Code 4, which is thicker, is welcomed and only the flashings, not the soakers would be visible.
- 8.16. To the rear, which is not visible from the public realm, Officers support the removal of the extract ductwork, which would not only be redundant, but is unsympathetic. The existing timber shiplap cladding to the rear elevation of the upper storey also falls into its category and the fibre cement is considered to be an improvement. The replacement of the asbestos roof on the existing single storey addition on the ground floor is encouraged and the grey standing seam steel clad roof is considered appropriate.

Impact on neighbouring amenity

- 8.17. 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.
- 8.18. The nearest residential properties are those to either side 7 and 10-11 Kings Road, 5-6 East Street to the east, the flats at 5 Kings Road and Dolphin Cottage at no. 6, which are both to the rear and share the rear courtyard.
- 8.19. The changes to the shopfront, replacement of the roof tiles, installation of lead cladding to the chimneys and changes to the rear are not considered to cause any material impact on neighbouring amenity.
- 8.20. The side elevation door towards the rear of the ground floor is recommended to be conditioned as for fire escape purposes only in order to avoid residents of staff from using the rear courtyard as a smoking or amenity area.
- 8.21. Whilst it is noted that the proposed use could have an impact upon immediate neighbours due to the activity levels and comings and goings associated with the number of occupiers proposed in conjunction with the short term nature of the site, it is considered that this impact is limited given that the upper floors of the application property have already been use as a HMO, albeit currently vacant but could be re-opened without the need for planning permission.
- 8.22. It is considered that the use of short term accommodation subject to a maximum of 12 occupiers (six on 'crash beds' i.e. a sleeping bag and mat on the ground floor and six on the upper) could be maintained in a fashion which would not cause significant harm to neighbouring amenity. To ensure

occupancy levels do not exceed this, a suitably worded condition is recommended to be attached in order to secure the number of future occupiers and to retain all communal facilities to ensure there would be no future increase in the number of bedrooms as well as ensuring the limited communal spaces and support areas are maintained.

- 8.23. A completed management plan and a signed Community Responsibility Protocol (once a service provider has been put in place) are recommended to be secured by planning condition. It is noted that there are aims in the protocol which relate to the management of the surrounding area:
1. The actions they will take in order to actively foster positive relations with neighbours and the local community.
  2. The steps they will take to prevent / minimise disruption to the local community.
  3. The work they will undertake with people who live there, in partnership with other agencies, to address any negative effects their behaviour may be having on neighbours and the local community.
- 8.24. The premises shall be soundproofed to prevent noise breakout beyond the external walls of the application site that would cause a significant disturbance to neighbouring occupiers, particularly for residential occupiers.
- 8.25. Whilst the venue would be operational for 24 hours, it is not considered that it is a particularly noisy or disruptive use given the measures outlined by the applicant, which are recommended to be secured within conditions as previously outlined.

Standard of accommodation

- 8.26. Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers in all new developments. Accommodation should therefore provide suitable circulation space within the communal spaces and bedrooms once the standard furniture has been installed, as well as good access to natural light and air in each habitable room.
- 8.27. The 'Nationally Described Space Standards' 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, they provide a useful guideline on acceptable room sizes that would offer occupants useable floor space once the usual furniture has been installed. The NDSS identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5sqm and a double bedroom as measuring 11.5sqm.
- 8.28. The accommodation proposed is to house homeless people and rough sleepers with a local connection to Brighton and Hove. The service will offer short term accommodation in the form of an assessment hub and associated sleeping accommodation. The proposed development would result in six single bedrooms, shared kitchen / dining facilities, bathroom facilities, 1:1

assessment rooms and staff and office space, together with 'crash beds' on the ground floor.

- 8.29. Given that the proposed accommodation is a short term service to equip service users with life skills and then promptly move them on to more suitable longer term accommodation, only a single living room has been provided on the ground floor. The applicant has justified this by stating that any further increase in communal living space, which would result in a loss of bedrooms, would detract from the aims of the service which is to encourage independence. The applicant is concerned that additional living facilities may make future occupiers feel as though they are in longer term accommodation rather than a short term place of personal development.
- 8.30. Given that the size of the bedrooms proposed have a GIA of at least 7.5m<sup>2</sup> with windows, it is considered that residents would have sufficient floor space within individual bedrooms and the communal space provided to receive an adequate standard of accommodation. Furthermore, the internal floor to ceiling heights are approximately 3.1m on the ground floor, 2.88m on the first and 2.39m on the second, which are all considered acceptable.
- 8.31. Each of the habitable rooms proposed are considered to benefit from acceptable levels of outlook, light and ventilation and are therefore deemed acceptable on these grounds in compliance with QD27 of the Brighton and Hove Local Plan.

#### Highways

- 8.32. Given that the site is less than a mile from Brighton train station, it is easily accessed on foot or by bicycle. It is also two minutes from Brighton Coach Station with various bus stops. As such, it is considered to be in a reasonable sustainable location.
- 8.33. Car-free development is proposed and is considered acceptable, since the outreach team will personally escort people to the application property and since rough sleepers don't own cars. Given the central location it is also considered that staff would walk to work. However, given that the future occupiers of the property could alter, the applicant has committed to including a restriction on future occupiers from applying for a parking permit in future leases and ownership documents and Highways have confirmed that the address has been added to the next Traffic Regulation Order due to be advertised. No condition is therefore required in this instance.
- 8.34. No cycle parking spaces have been proposed and in the interests of encouraging sustainable means of travel it is therefore recommended that details be requested by condition.
- 8.35. There is not forecast to be a significant increase in vehicle trip generation as a result of this proposal and therefore any impact on carriageways would be minimal and therefore deemed acceptable.

#### Sustainability

- 8.36. City Plan Part One Policy CP8 requires new residential development demonstrate efficiency in the use of water and energy, setting standards that mirror the national technical standard for water and energy consumption. However, these are not applicable in the case of a conversion.

Summary

- 8.37. The proposed development would provide temporary accommodation for rough sleepers / the homeless as well as an assessment centre in order for them to be provided with a permanent residence in the future. The standard of accommodation and impact on neighbouring amenity are considered acceptable subject to the imposition of suitable conditions, and the proposal would not cause a significantly harmful impact on the conservation area or highways. The application is therefore recommended for approval.

**9. EQUALITIES**

- 9.1. Policy HO13 seeks access standards above normal Building Regulations. In this case, this is not strictly a residential development and the proposed change to the shopfront in the form of a wider entrance would allow access for wheelchair users.