

<u>No:</u>	BH2020/01808	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	39 Guildford Road Brighton BN1 3LW		
<u>Proposal:</u>	Change of use of the ground floor fish and chips shop (A5) to office (B1) and alterations and single storey extensions to the rear of the building to create a studio flat (C3). (Part-Retrospective)		
<u>Officer:</u>	Emily Stanbridge, 293311	tel: <u>Valid Date:</u>	08.07.2020
<u>Con Area:</u>		<u>Expiry Date:</u>	02.09.2020
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd Road Brighton BN1 5PD	Lewis & Co Planning	2 Port Hall
<u>Applicant:</u>	Mr Kelmend Murataj Brighton BN1 5PD	C/o Lewis & Co Planning	2 Port Hall Road

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
Proposed Drawing	A-03		24 August 2020
Location and block plan	A-01		24 August 2020
			24 August 2020

2. 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 HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
3. The B1 office use hereby permitted shall not be open to customers except between the hours of 09:00 - 18:00 Monday to Friday and 09:00 - 17:00 Saturdays and shall remain closed on Sundays, Public and Bank Holidays.

Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan

4. The rooflight of the single storey extension hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
5. Access to the flat roof over the extension hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
6. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
7. Prior to first occupation of the development hereby permitted a scheme shall be submitted to the Local Planning Authority for approval 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. The approved scheme shall be implemented before occupation.
Reason: This 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 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.
8. The residential unit hereby approved shall not be occupied until it has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with Policy CP8 of the Brighton & Hove City Plan Part One.
9. The residential unit hereby approved shall not be occupied until it has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.

Reason: To ensure that the development is sustainable and makes efficient use of water to comply with Policy CP8 of the Brighton & Hove City Plan Part One.

10. A bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

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

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. The applicant is advised that the scheme required to be submitted by Condition 7 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers of the restrictions upon the issuing of resident parking permits.
3. 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 & APPLICATION DESCRIPTION

- 2.1. The application relates to a narrow, three-storey, terraced property on the northern side of Guildford Road. The road is predominantly residential in nature, although there is a café at the junction of Guildford Road and Terminus Road, a public house at the junction of Guildford Road and Surrey Street, and two further public houses to the west of the application site along Guildford Road. There are numerous commercial units at the nearby train station and along Queen Street and its surrounding area.
- 2.2. The application site has been split into two units. The ground floor is a vacant commercial unit, most recently occupied as a fish-and-chip shop. The upper floors are a residential maisonette which was given permission for a four-bedroom, small house in multiple occupation (HMO - Planning Use Class C4) on appeal in May 2020.
- 2.3. The front elevation currently features a green-tiled shopfront with a large display window and timber fascia board at ground floor. The upper floor elevations are painted render. The front elevation is similar in appearance to the rest of the

terrace to the west of the site. The application site is adjoined to a two storey (plus basement) building to the east which is of a different style to the application site.

- 2.4. To the rear of the building there are a number of ad-hoc structures in poor condition adjoined to the main building, as well as a small garden surrounded by high boundary walls.
- 2.5. The property is located within the West Hill Conservation Area. There are no listed buildings in the near vicinity.
- 2.6. There is no off-street parking associated with the application site.
- 2.7. The application has changed over the lifespan of the submission. Originally, permission was sought for change of use of the ground floor fish and chips shop (Planning Use Class A5) to office (Planning Use Class B1) and alterations and extensions to the rear of the building to create a two-bedroom flat (Planning Use Class C3).
- 2.8. After negotiation, the application has been revised and the application now seeks to change the use of the vacant ground floor fish-and-chip shop (Planning Use Class A5) to provide 16.4m² of office space (Planning Use Class B1) plus a small kitchen and W.C. Planning Permission is also sought to remove the ad-hoc structures to the rear and replace them with a single storey rear extension to create a studio flat (Planning Use Class C3). The application is part-retrospective as the works to convert the interior of the shop to an office has commenced, though this is not a material consideration in determining the application.

3. RELEVANT HISTORY

- 3.1. BH2020/00235: Change of use from existing three-bedroom flat (C3) to a four-bedroom small house in multiple occupation (C4). Approved May 2020.

4. REPRESENTATIONS

- 4.1. Thirteen (13) representations have been received objecting to the proposed development on the following grounds:
 - Lack of transparency in application
 - Overdevelopment
 - Poor design
 - Adversely affects the conservation area
 - Noise and disruption
 - The proposed extension is out of character with the area
 - Overlooking and loss of privacy

- Significant increase in occupiers of the building
- Lack of measurements on the plans
- Poor access for disabled people
- This application could set a precedent
- The application retains only a small area of commercial use
- Parking pressures
- Additional traffic
- Works have already begun
- Waste management
- No other such developments in the area
- The commercial use should be retained as fast food outlet or retail

- 4.2. Revised plans were received on the 25 August 2020 with the following revisions:
- Reducing the scale of the single storey rear extension from 12.4m deep to 9.85 deep;
 - Proposing a studio apartment rather than a two-bedroom apartment in the single-storey extension.
- 4.3. A single representation was received objecting regarding the revised scheme:
- Overshadowing
 - Loss of privacy
 - Additional noise
 - Increased comings and goings
 - Additional traffic

5. CONSULTATIONS

5.1. Policy Comment Loss of existing unit

The unit is located close to Brighton Station on the periphery of the Regional Shopping Centre. As such the unit operates as an individual commercial unit and not part of a parade. Policy SR8 Individual Shops in the Adopted Local Plan 2005 seeks to protect only A1 uses therefore this policy does not apply in this instance.

- 5.2. Draft CPP2 policy DM13 will allow a change of use of individual shop units to non-A1-A5 use provided that there are alternative shopping facilities within reasonable walking distance (300m) and the shop unit has been marketed for a minimum of one year. The weight attached to this policy is however limited at this point.

Proposed office use

- 5.3. The provision of new employment floorspace is assessed under saved Policy EM4 of the Local Plan and no concerns are raised with regard to criteria (a) to (d), criteria (e) and (f) are for the case officer to assess and criteria (g) would be difficult to achieve due to the size of the site.

- 5.4. Draft CPP2 policy DM11, which currently holds limited weight, should also be taken into account which outlines requirements for new business floorspace; particularly paragraph 2.99 which outlines the requirements that need to be demonstrated in order to meet the likely needs of end users and to attract new occupiers.
- 5.5. **Sustainable Transport:** Verbal Comment 22.07.2020 Approval subject to conditions
- Car free housing
- 5.6. **Heritage** No comment
- 5.7. **Private Sector Housing** Comment
It needs to be ensured that a 60 minute separation between residential and commercial parts including provision of linked AFD coverage. Both bedrooms at ground floor rear-facing are inner rooms so we'd to ensure there is either mist system installed to open plan kitchen/diner (front-facing); or, escape windows (if feasible) installed to both bedrooms rear-facing leading to an ultimate place of safety.
- 5.8. **Environmental Health** Comment
Attach condition for discovery of land contamination

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 Joint Area Action Plan (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 2

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 being undertaken until 30 October 2020.

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density
CP19	Housing mix

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

TR7	Safe Development
TR14	Cycle access and parking
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
SR8	Individual shops
HO5	Provision of private amenity space in residential development

Supplementary Planning Documents:

SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main considerations in the determination of this application relate to the principle of the development, the appearance of the development and its impact upon the character and appearance of the streetscene including the Conservation Area; the standard of accommodation provided; the impact on neighbouring properties; and transport implications.

- 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.
- 8.3. The Council's most recent housing land supply position published in the Strategic Housing Land Availability Assessment Update 2019 shows a five year housing supply shortfall of 1,200 (equivalent to 4.0 years of housing supply). As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 8.4. Due to the coronavirus pandemic it has not been possible to undertake a physical site visit due to social distancing and alternative working arrangements. The assessment detailed below has been made based on the documents submitted as part of the application, photographs provided by the planning agent during consideration and recent GoogleEarth and Streetview imagery of the site.

Principle of development

Loss of existing use

- 8.5. The unit is located close to Brighton Station on the periphery of the Regional Shopping Centre. As such the unit operates as an individual commercial unit and not part of a parade. Policy SR8 within the Adopted Local Plan relates to Individual shop units but only seeks to protect A1 Uses and therefore in this case does not apply. Whilst the draft City Plan Part 2 is more restrictive in terms of allowing a change of use to non A1-A5 units, only limited weight is attached to this policy at this time.
- 8.6. Furthermore, information has been submitted with this application to state that the unit is currently vacant. The property was last used as a fish and chip shop, but this ceased trading approximately three years ago.
- 8.7. On balance, therefore, it is considered that given the time since it has been used for retail purposes, and the lack of adopted policy support for retaining such use, the loss of a retail unit is acceptable in principle.

Proposed use

- 8.8. The provision of new employment space in this unit would be a small but welcomed addition. The proposed B1 office, although small in size, would provide a kitchen area and toilet facilities and would contain a sufficient floor area for a small business.

- 8.9. With regard to a B1 use, Local Plan Policy EM4 states:
"Planning permission will be granted for new business and industrial uses (Use Classes B1 and B2) on unidentified sites within the built-up area boundary provided that:
- a. there is a demonstrable need for such a use, given the availability of existing land or premises identified in the plan or on the market or with outstanding planning permission;*
 - b. the site is readily accessible by public transport, walking and cycling;*
 - c. the development would not result in the net loss of residential accommodation;*
 - d. the development would not result in the loss of an important open space, an identified Greenway or a nature conservation site as specified in the Plan;*
 - e. the development would not have a demonstrably adverse environmental impact because of increased traffic and noise;*
 - f. the development would not be detrimental to the amenities of occupiers of nearby properties or the general character of the area; and*
 - g. there is adequate landscaped amenity open space."*
- 8.10. The proposals meet criteria a-f as is considered below. There is a significant need for new B1 floorspace in the city and therefore the provision of the proposed new floorspace is welcomed. With regards to criteria g, this would be difficult to achieve given the size of the site so is considered adequate in this regard, and to meet the criterion.
- 8.11. The proposal would provide new employment floorspace and would therefore accord with City Plan Part One Policies CP2 and CP3, helping to meet an identified need for B1 office space in the city.

Design and Appearance

- 8.12. The front elevation of the application site would remain largely unaltered, retaining the shop front window which looks out over Guildford Road. A new replacement communal entrance door to the building would be provided.
- 8.13. The most significant changes to the property are to the rear of the existing building, which includes the extension to house a new residential unit. The original submission included a 12.4m deep rear extension of primarily 2.5 metres in height with a reverse pitched section to 3.5 metres in height. This reverse pitched roof has subsequently been removed from the scheme. The original extension was considered to be overly large, resulting in a significant area of flat roof.
- 8.14. Alterations were sought and the application now features a single storey rear extension which extends 9.85 metres from the original building and 2.5 metres in height. The proposed extension would be positioned between adjacent neighbouring extensions. To the west of the site is a large extension which forms

the shared boundary wall and is of a much greater height than that proposed. To the east of the site is an extension featuring a butterfly roof form, although not as high as the extension proposed, the perceived height of the proposed extension would be reduced when viewed in context with this neighbouring addition and shared boundary wall.

- 8.15. Although the proposed extension would be a large addition to a terrace building, it should be noted that extensions of varying depths exist on the neighbouring terraced properties to the west. In addition, the proposed extension would replace the existing ad-hoc extensions and extend no further to the rear than the existing buildings, but squaring-off the rear elevation.
- 8.16. The proposed scheme is therefore not considered to pose any additional harm to the character and appearance of the host property or the wider Consideration Area, particularly as there would be minimal change to the front elevation.

Standard of accommodation

- 8.17. Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers.
- 8.18. 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, Draft City Plan Part 2 proposes to adopt them and indicates a direction of travel on behalf of the LPA. The NDSS 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.
- 8.19. The Local Planning Authority considers both quantitative and qualitative issues raised with regards to the standard of accommodation for future occupiers in accordance with policy QD27.
- 8.20. Access to the studio apartment would be via a main communal front door which would also provide access to the office and to the separate HMO on the first and second floors.
- 8.21. The studio apartment would measure 47m² and comprise an open plan kitchen and dining area, separate shower area and bedroom/living area screened by a partition wall which extends half the width of the extension to ensure an open plan layout is retained. The proposed apartment would receive natural light from two rooflights and two sets of French doors on the rear elevation serving the bedroom/living area. The rooflights proposed will be obscure glazed to protect the privacy of future occupiers from views out of the windows on the floors above.

- 8.22. The kitchen area would lack natural light and views, however internal kitchens and shower rooms are not uncommon in apartments, and the remaining space would be well lit from the two French doors. The overall layout is considered reasonable and would provide the future occupant/s with room to cook and dine and relax in and would exceed the NDSS requirements for a studio unit. The layout is considered to allow for sufficient usable floor area and circulation space after the placing of likely furniture items required by future occupiers.
- 8.23. The apartment would also have access to its own private rear garden providing valuable outdoor amenity space for future occupants. Policy HO5 requires development to include outdoor amenity space and this development meets the needs of the policy as the size of the outdoor space is proportionate to the dwelling and anticipated occupation.
- 8.24. The proposed studio apartment is therefore considered to provide a reasonable level of living accommodation to future occupants in accordance with policies DQ27 and HO5.

Impact on Amenity:

- 8.25. 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.

The proposed change of commercial use

- 8.26. The use of the site as B1 would attract a limited footfall of visitors to the site. Given the overall space of the commercial unit, the proposed number of employees would be limited. Given the small-scale nature of the development it is unlikely that the proposed use would create harmful noise disturbance to neighbouring residential properties. In any case, a condition to restrict the opening times is attached to protect the amenity of the current and future occupiers of neighbouring properties.
- 8.27. Additionally, the change of use from the unit's previous use as a chip shop to B1 office space reduces the harm to local amenity. There will be less comings and goings of an evening and weekends when local residents are likely to be at home, as well as in decrease in cooking odours, noise from extraction equipment and pollution.
- 8.28. The introduction of an office space is not considered to cause detrimental harm to neighbouring occupiers and therefore is in accordance with Policy QD27 of the Local Plan.

The proposed residential unit

- 8.29. The proposed studio flat would result in an increase in comings and goings, but the number of people occupying the studio flat would be limited due to the size of the accommodation and is therefore unlikely to be of a magnitude to warrant refusal.
- 8.30. Due to the close proximity of neighbouring properties on Guildford Road, Terminus Street and Terminus Road there will be a small increase in mutual overlooking which is to be expected in a built-up residential area such as this. The rear French doors would look out onto the rear garden and then a high boundary wall measuring 2.9m high. The wall would obscure views of the neighbouring properties thereby protecting privacy.
- 8.31. The height of the proposed extension would be set below the height of the shared boundary wall to the east. This boundary wall which comprises part of the neighbouring extension, features no window openings. The proposed extension would therefore not be visible from this neighbouring property.
- 8.32. In addition, No.4 Terminus Road features a large butterfly roof extension which extends to the eastern boundary of the site. This neighbouring extension coupled with the height of the shared boundary wall reduces any significant harm to these neighbouring occupiers and therefore the addition of the extension is considered acceptable.
- 8.33. Overall, the proposed studio flat is not considered to have a significant adverse effect on neighbouring amenity and would not warrant the refusal of this application.

Sustainable Transport:

Cycle Parking

- 8.34. Due to site constraints it is not considered that policy compliant cycle parking could be achieved and as such in this instance no cycle parking is sought by condition.

Car Parking and trip generation

- 8.35. The additional residential unit could create overspill of parking into the surrounding streets, but this is not considered to amount to a serve impact. Furthermore, the site is located in CPZ Zone Y, which should mitigate some of the parking demand.
- 8.36. Permit uptake, within this zone, as an average of the last 12 months was measured at 96% and therefore a condition requiring the development to be car free will be secured by condition.

- 8.37. The office use within the building is unlikely to generate a significant impact in trips owing to its size. In addition, the office is in a highly sustainable location with public transport options in close proximity.

Other Considerations:

- 8.38. The Council has been seeking to improve ecological outcomes within the city. Since November 2019 the Council has been securing minor amendments to approved schemes to increase biodiversity contributions. A condition will therefore 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.

9. EQUALITIES

- 9.1. Although the living space of the proposed studio flat is over one level it would be accessed by a single step up to the communal front door and via a narrow corridor measuring 0.8m wide. Therefore the property, owing to its access, may not be suitable for those with severe mobility impairments, and a condition to secure compliance with Building Regulations M4(2) is not sought.

