

<u>No:</u>	BH2021/04399	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	119A St James's Street Brighton BN2 1TH		
<u>Proposal:</u>	Change of use from four bedroom flat (C3) to five bedroom small house in multiple occupation (C4).		
<u>Officer:</u>	Rebecca Smith, tel: 291075	<u>Valid Date:</u>	23.12.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	17.02.2022
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	SDR Designs 14 Batemans Road Woodingdean Brighton BN2 6RD		
<u>Applicant:</u>	Mr Ahmed C/o 14 Batemans Road Woodingdean Brighton BN2 6RD		

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	1432021/.02	A	16 February 2022

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 small HMO (planning use class C4) hereby approved shall only be occupied by a maximum of four (4) persons.

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

4. The development hereby approved shall be implemented in strict accordance with the proposed layout detailed on the proposed floorplan, 1492021/.02 A, received on 216th February 2022 and shall be retained as such thereafter. The layout of the kitchen/dining and living spaces shall be retained as communal space at all times and shall not be used as bedrooms. The roof storage space

shall be retained for storage purposes only and not used as bedrooms or living areas 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. Notwithstanding the approved plans, 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.

6. Prior to occupation of the property as a small HMO (planning use class C4), a cycle channel shall be installed to the rear stairs to the first floor to aid in the movement of cycles from the side access to the cycle store at first floor level.

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. SITE LOCATION

- 2.1. The application site is a four storey over basement terraced property, with a commercial use at ground/lower ground floor accessed from St James's Street, and residential use on the first, second and third floors, accessed from Charles Street to the rear. This application refers solely to the residential unit on the first, second and third floors known as 119A St James's Street.
- 2.2. The whole city is now covered by an Article 4 Direction to remove permitted development rights regarding the change of use from a single dwellinghouse (C3) to small HMO (C4). However as this property is within the Queen's Park ward, this area has been subject to this restriction since April 2013. The application site is not a listed building but does lie within the East Cliff conservation area.

3. RELEVANT HISTORY

- 3.1. **BH2010/02620** - Conversion of first, second and third floors and loft to form 2no bedsit/studio flat and 1no two bedroom maisonette. Installation of rooflights to front and rear, removal of external fire escape and replacement doors and windows to rear. Refused, appealed but Appeal withdrawn

4. APPLICATION DESCRIPTION

- 4.1. This application seeks planning permission for the change of use of 119A St James's Street from planning use class C3 (dwellinghouse) to a C4 use (small House in Multiple Occupation (HMO)).
- 4.2. The application has been amended since submission in response to concerns, and as a result the number of proposed bedrooms has reduced from five to four.

5. REPRESENTATIONS

- 5.1. **Seven (7) letters** have been received objecting to the proposed development for the following reasons:
- Adversely affects conservation area,
 - Additional traffic,
 - Noise and disturbance,
 - Impact on residential amenity,
 - Overdevelopment,
 - HMO use has been ongoing without a licence or planning permission,
 - Property access is via an alleyway between other residential properties and causes disturbance to residents already,
 - Property has previously been overcrowded.
 - Next door is also applying for a HMO use,
 - Address is already managed poorly,
 - Charles Street already has an excessive number of party houses a further HMO would increase noise further,
 - Adverse effect on listed building,
 - Detrimental effect on property value,
 - Increase in anti-social behaviour around the property,
 - Balcony overlooked by surrounding properties,
 - Landlord should not be allowed to run a HMO,
 - Amended plans would not be implemented by landlord - lounge would be a bedroom.
 - Right of way between 23 & 25 Charles Street does not allow for access for HMO use.

6. CONSULTATIONS

- 6.1. **Housing Strategy:** No comment received
- 6.2. **Private Sector Housing:** No comments to make

- 6.3. **Sustainable Transport - Verbal Comment:** No objection
 The change of use unlikely to significantly increase trips to/from the site or increase on-street parking demand in the vicinity. The proposed cycle parking is at first floor level, while it is appreciated that some has been provided the first floor location is less than ideal. If the cycle parking could be provided at ground level this would be preferred. If not, then cycle channels on the stairs would aid the movement of cycles up and down the stairs. For a development of this size it is expected that a minimum of 3 cycle parking spaces are provided. Cycle parking details should be secured by condition if the application is approved.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing Delivery
CP9	Sustainable transport
CP15	Heritage
CP21	Student housing and Housing in Multiple Occupation

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

TR14	Cycle access and parking
SU10	Noise Nuisance
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HE6	Development within or affecting the setting of conservation areas

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications.

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

Supplementary Planning Documents:

SPD12	Design guidance for extensions and alterations
SPD14	Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the proposed change of use, the standard of accommodation provided for future occupiers, the impact of the development on neighbouring amenity and transport matters.

Principle of Proposed Change of Use:

Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to planning use class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation and states that:

"In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in Multiple Occupation) use, a mixed C3/C4, or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:

- *More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use."*

- 9.2. A mapping exercise has been undertaken (February 2022) which indicates that there are 100 properties within a 50m radius of the application property, 4 of which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 4%.
- 9.3. Based on the existing percentage of neighbouring properties in HMO use, which is less than 10%, the change of use to a four-bedroom HMO (C4 use) would not conflict with the aims of policy CP21.

Standard of Accommodation:

- 9.4. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, Policy DM1 of Draft City Plan Part 2 proposes to adopt them and can now be given significant weight. Additionally, the proposals are considered against DM7 which sets the standard for HMOs (including what is expected of communal areas), this emerging policy can also be given significant weight.
- 9.5. The proposed HMO accommodation would comprise a living room (8.4sqm) and bedroom (Bedroom 4 - 20.8sqm) at first floor, with a kitchen and dining room (17.4 sqm) and bedroom (Bedroom 3 - 13.8sqm) at second floor, and the remaining two bedrooms at third floor level (Bedroom 1 excluding ensuite 18sqm, and Bedroom 2 - 14.3sqm). All of the bedrooms would be large and would comfortably accommodate standard bedroom furniture (bed, desk, chair and storage furniture) while maintaining a good amount of circulation space for an adult to move around easily.
- 9.6. The kitchen and dining space would allow for sufficient space for occupants to cook and dine together.
- 9.7. As submitted the proposal sought planning permission for a five bedroom layout over the first, second and third floors. However, concerns were raised over the standard of communal living accommodation and the lack of dedicated living space for future occupiers. In response to this, the fifth bedroom was deleted to create additional living space which would be provided at first floor level. A condition would be added, securing this being used as communal space rather than a bedroom.
- 9.8. The proposed HMO would be well served in terms of bathroom facilities with bedroom 1 having an ensuite shower room with WC and the first and second floor both having separate WCs and the main bathroom for the property on the second floor with a bath basin and WC.
- 9.9. The above assessment has been made on the property as a four-bedroom, four-person HMO. While it is noted that numerically, in terms of the floor area, the communal spaces could allow for a higher occupancy and all of the bedrooms could allow for double occupancy. However, the shapes of the communal spaces and the indicative layout demonstrates that a higher level of occupation would result in a cramped living experience for more than four occupiers as it is likely there is not sufficient circulating space within the communal layout shown for a higher level of occupation.
- 9.10. To ensure that the property is not overcrowded in the future conditions are recommended to secure a maximum occupation of four persons and four bedrooms with communal areas safeguarded and the roof storage rooms for storage only.
- 9.11. The property does not have any dedicated outdoor private amenity space. While this is beneficial to all homes, given the location of the property within the

densely populated area of Kemp Town where properties have little, if any outside space, it is not considered that lack of outside space would be harmful to the future occupiers of the HMO. In reaching this assessment it is noted that the residential unit as existing has no outside space and that the property is close to Brighton beach and Valley Gardens which are the nearest green and open spaces.

- 9.12. Overall, it is considered that the conversion of the property to a small HMO would provide a suitable standard of accommodation for the number of occupants proposed and is therefore in accordance with to policy QD27 of the Brighton and Hove Local Plan and emerging polices DM1 and DM7 of the City Plan Part Two which can be afforded significant weight.

Impact on Amenity:

- 9.13. Policy QD27 of the Brighton & Hove Local Plan and emerging Policy DM20 of City Plan Part 2 (which can be given significant weight) state that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.14. It is acknowledged that public comments on this application refer to a previous use of the property as an unauthorised HMO with antisocial behaviour that impacted on neighbour amenity and caused disturbance. While this is noted, the use as small HMO is similar to a family dwelling especially if a C3 dwelling is occupied by a large family. Furthermore, the previous issues can be described as "functions of the way particular residents behave rather than being inherently dependant on the status of the property as a dwellinghouse or HMO", as noted by an Inspector in a previous appeal decision (APP/Q1445/W/20/3254632 relating to application BH2019/01490 at 64 Islingword Road). Therefore, it would be unreasonable to refuse this development on the assumption that future residents would behave in a problematic manner.
- 9.15. Furthermore, it is noted that a HMO of this size would require licensing by the Council's Private Sector Housing team and thus be required to comply with management standards amongst other requirements. Additionally, the granting of this planning permission would not prohibit the Environmental Health team acting against 'statutory nuisance' under the Environmental Protection Act 1990 if this was required in the future.
- 9.16. Accordingly, the proposed use of the property as a small HMO for four persons is not detrimental to neighbouring amenity or the amenity of the area and in an area with a low concentration of HMOs. Therefore, the proposal is considered in accordance with polices CP21 of the City plan part One, QD27 of the Local plan and emerging polices DM7 and DM20 of the City Plan Part Two.

Sustainable Transport:

- 9.17. The existing dwelling is in a central and sustainable location with access to local buses at Old Steine and many daily amenities within easy reach of the site. The site is also within walking distance of Brighton Station. It is not considered that

the change from a four-bedroom maisonette to a HMO use would adversely affect the local highway network in terms of the number of trips generated.

- 9.18. It is acknowledged that the property does not provide any off-street car parking and that this is unchanged from the existing residential arrangement. There may be a resulting uplift in parking demand from the change in occupation type of this residential address, but this is not expected to be significant, particularly as St James's Street is subject to parking and loading restrictions, and neighbouring streets are within a Controlled Parking Zone. Any future occupiers would therefore need a resident's parking permit to enable on-street car parking, with the number of permits issued being within the Council's control.
- 9.19. The plans indicate a proposed 'secure cycle store' at first floor level. The first floor location of the cycle store is less than ideal, with access being up a metal staircase and through a narrow alleyway from the street. However, there are no other options for this site and the alternative would be no cycle parking. The transport team have requested further details of the cycle store by condition; therefore a cycle parking condition is recommended. In addition, following the comments of the transport team, it is recommended that a cycle channel be installed on the staircase to aid in the movement of cycles from the street to the cycle store.
- 9.20. Accordingly, the development, subject to the recommended conditions, is considered acceptable in relation to transport matters.

Conclusion:

- 9.21. This is a site where there are not more than 10% of residential properties within a 50m radius in HMO use, thereby complying with policy CP21 which supports mixed communities. The proposed standard of accommodation for four occupiers is considered acceptable, and the likely impact on neighbouring amenity would not be sufficiently harmful to warrant refusal. No significant transport concerns have been identified.
- 9.22. Accordingly, the application is recommended for approval, subject to conditions restricting any of the communal area being lost to bedrooms; the overall number of occupiers to four; and requiring the implementation of the cycle parking and cycle channels.

10. EQUALITIES
None identified

- 11. CLIMATE CHANGE & BIODIVERSITY:**
- HMO property in a sustainable location close to amenities and public transport.
 - The development would also provide cycle parking.