

<u>No:</u>	BH2018/01965	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	99 Dyke Road Brighton BN1 3JE		
<u>Proposal:</u>	Change of use from two bedroom flat (C3) to yoga studio with therapy treatment rooms (D2) with opening hours of 10am - 6pm Monday to Friday.		
<u>Officer:</u>	Michael Tucker, 292359	tel:	<u>Valid Date:</u> 23.07.2018
<u>Con Area:</u>	Montpelier & Clifton Hill	<u>Expiry Date:</u>	17.09.2018
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	20.02.2019
<u>Agent:</u>	Mr Antony Causton 101 Dyke Road Brighton BN1 3JE		
<u>Applicant:</u>	Mr Antony Causton 99 Dyke Road Brighton BN1 3JE		

Councillor Tom Druitt has requested this application is determined by the Planning Committee.

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 **REFUSE** planning permission for the following reasons:

1. Policy HO8 seeks to retain housing and states that proposals involving the net loss of units of residential accommodation will not be supported unless exceptional circumstances can be demonstrated. The application has failed to demonstrate that any of these exceptional circumstances have been met and the proposed change of use is therefore contrary to policy HO8 of the Brighton and Hove Local Plan.

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. This decision is based on the drawings received listed below:

Plan Type	Reference	Version	Date Received
Floor Plans Proposed	A.002		23 July 2018

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a three-storey terraced property on the west side of Dyke Road. The ground floor is in use as a yoga clinic (D2), while the first and second floors are configured as a two-bedroom flat (C3). The upper floors have been vacant for some years.

3. SITE LOCATION & APPLICATION DESCRIPTION

- 3.1. The application relates to a three-storey terraced property on the west side of Dyke Road. The ground floor is in use as a yoga clinic (D2), while the first and second floors are configured as a two-bedroom flat (C3). The upper floors have been vacant for some years. The property is adjacent to "The Cow" public house on its southern side (with customer facilities at first floor level) and a convenience store with residential at first floor on its northern side.
- 3.2. Planning permission is sought to change the use of the first and second floors from residential (C3) to pilates/yoga/Counselling treatment rooms (D2), representing an extension of the floorspace available to Reach Physiotherapy currently on the ground floor of the premises.
- 3.3. The applicant has advised that the use of the current operation and premises has now intensified to the point where expansion or relocation is now necessary and, whilst the operation continues to offer and support its local community through the treatments it offers it is keen to remain in the present location and therefore the expansion of the clinic into the floors above is proposed. The proposal includes provision of space to offer exercise classes and counselling services to the local population.
- 3.4. Reach Physiotherapy provides physiotherapy treatment, massage, exercise classes and acupuncture to a full cross section of the local community and has been operating from the above site for some years and also providing some additional treatments and some free classes in a nearby church hall.

4. RELEVANT HISTORY

None identified.

5. REPRESENTATIONS

- 5.1. Two (2) letters have been received from the same individual (September and November 2018), objecting to the proposal for the following reasons:
- Insufficient consultation and civil matters relating to tenancy
- 5.2. The application was re-advertised in February 2019 following the receipt of further information from the applicant. No further public responses have been received.

5.3. **Councillor Tom Drutt** has written to support the proposal. Comments attached.

6. CONSULTATIONS

6.1. **Private Sector Housing:** No comment

6.2. **Environmental Health:** No comment received

6.3. **Sports Facilities and Development:** No comment received

6.4. **Economic Development:** No objection
City Regeneration fully supports this application.

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

6.6. **Planning Policy:** Objection
The proposed development is contrary to Policy HO8 of the Brighton and Hove Local Plan.

6.7. **Sustainable Transport:** No objection
Recommended approval.

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);

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
CP2	Sustainable economic development
CP3	Employment land
CP9	Sustainable transport

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD27	Protection of amenity
HO8	Retaining Housing
HO19	New community facilities
HO20	Retention of community facilities
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
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 impact of the proposal on neighbouring amenity and transport.

Principle of Development:

- 9.2. The proposal would involve the change of use of the first and second floors of the building from a C3 unit to additional floor space of D2 (yoga/pilates studio and therapy rooms) in connection with the current ground floor use of the building. The proposal would, however, result in the enlargement of an existing D2 unit providing yoga therapy services to members of the public and would provide an additional 82sqm of employment floorspace. The proposal would also bring the currently derelict first and second floors of the building back into an active use. In this regards the provision of additional community facilities is supported subject to all other material considerations.
- 9.3. Policy HO8 of the Brighton and Hove Local Plan seeks to protect existing residential uses from loss and sets out five criteria by which the loss of existing residential accommodation would be acceptable.
- 9.4. *"Planning permission will not be permitted for proposals involving a net loss of units of residential accommodation unless one or more of the following exceptional circumstances applies:*

- a. *The residential accommodation is classified as unfit for human habitation and it can be demonstrated that it cannot be made fit for habitation;*
 - b. *A separate access to the residential accommodation is impracticable;*
 - c. *Where it can be demonstrated that the change of use is the only practicable way of preserving the existence or special architectural or historic character of a listed building or other building of architectural or historic interest;*
 - d. *Where the proposal would result in a net gain in units of affordable housing; or*
 - e. *Where previous use of a building would be a material consideration.*
- 9.5. On the site visit it was noted that the property was in a poor state of repair, however, it is considered that renovation of the property subject to the financial investment would be possible and as such circumstance a. is not met. No evidence has been provided to formally advise that the property is incapable of being restored to a state fit for human habitation and therefore circumstance a is not met.
- 9.6. There exists a separate access from street level into the residential unit. Circumstance b. is not met.
- 9.7. The building is not listed nor is it of special architectural or historic interest. Circumstance c. is not met.
- 9.8. There would not be a net gain in units of affordable housing. Circumstance d. is not met.
- 9.9. No planning history has been identified, suggesting that the upper floors have been in their current C3 use for a significant period of time. Circumstance e. is not met.
- 9.10. The applicant has therefore not sufficiently demonstrated that the proposal is in accordance with retained policy HO8 of the Brighton and Hove Local Plan.
- 9.11. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).
- 9.12. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation,

when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

- 9.13. On balance and in view of the housing needs of the city, the aforementioned conflict with policy HO8 is considered to outweigh the identified benefits of the proposal, and the proposal is therefore considered to be unacceptable in principle.

Design and Appearance:

- 9.14. No external works are proposed and the proposal is therefore considered not to harm the character and appearance of the Montpelier and Clifton Hill Conservation Area, or the setting of the nearby listed buildings.

Impact on Amenity:

- 9.15. The proposed change of use from C3 to D2 has the potential to generate additional noise disturbance to neighbouring properties during the operating hours of the clinic, which have been stated by the applicant to be between 10:00am and 18:00 however it is considered that suitable conditions could be attached to minimise the impact of the proposal on neighbouring amenity and to ensure any future use of the building was appropriately controlled.
- 9.16. No alterations are proposed to the fenestration of the building and so there is not likely to be a resultant increase in harmful overlooking.

Sustainable Transport:

- 9.17. The proposed change of use is not likely to result in a significant increase in trip generation.
- 9.18. No car parking is proposed. The site is located within CPZ Y and therefore any parking demand the proposed change of use would create can be managed.
- 9.19. No cycle parking is proposed, which is contrary to SPD14, however, the constraints of the site and the availability of public cycle parking in the vicinity mean that this is considered not to warrant refusal of the application.

Conclusion:

- 9.20. It is considered that subject to appropriate conditions the proposal would not harm local amenity nor be development out of character with the streetscene and local area. The development would provide an additional health and wellbeing resource within a sustainable location and is considered to be beneficial, however, the proposal does involve the loss of a unit of residential accommodation contrary to policy HO8. The loss of residential is not considered to be outweighed by the benefits of the proposal and refusal is therefore recommended.

10. EQUALITIES
None identified.

