

<u>No:</u>	BH2023/00568	<u>Ward:</u>	Preston Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	248 Dyke Road Brighton BN1 5AE		
<u>Proposal:</u>	Change of use of single dwellinghouse (C3) to form 7no bedroom large house in multiple occupation for 11no persons (sui generis) with external works including installation of cycle parking facilities, revisions to fenestration, and associated alterations (part retrospective).		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	27.02.2023
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	24.04.2023
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	06.10.2023
<u>Agent:</u>	Wang Dao Architecture Ltd Mocatta House Trafalgar Place Brighton BN1 4DU		
<u>Applicant:</u>	IPG 248 Dyke Road Brighton BN1 5AE		

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	2209 PL 01	A	30 August 2023
Proposed Drawing	2209 PL 03	D	8 September 2023
Proposed Drawing	2209 PL 04	-	27 February 2023
Proposed Drawing	2209 PL 06	A	8 September 2023
Detail	2209 PL 07	-	27 February 2023
Proposed Drawing	2209 PL 20	C	8 September 2023

2. The following windows hereby permitted shall be obscure glazed and non-opening, unless the parts which can be opened are more than 1.7 metres above the floor of the room in which the window/rooflight is installed, and thereafter permanently retained as such.

- The window servicing the ensuite on the northwest side elevation at first floor level.
- The window servicing Shower 2 on the northwest side elevation at first floor level.
- The window servicing the staircase on the northwest side elevation at first floor level.

- The window servicing the staircase on the northwest side elevation at second floor level.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.

3. Prior to first use of the house in multiple occupation (HMO) hereby approved, a management plan in writing by the Local Planning Authority. This should include details relating to site management, behaviour and conduct of future occupiers, how residents can contact the landlord/managing agents to raise concerns, details of how parking will be allocated and enforced and waste/refuse management. The occupation and use of the building shall be in strict accordance with the approved management plan.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

4. The large house in multiple occupation hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans 2209 PL 03 rev D received on 8th September 2023.

The internal layouts shall be retained as first implemented thereafter.

Reason: To ensure an acceptable standard of accommodation for future occupiers is provided and maintained thereafter and to comply with policy DM1 of the Brighton and Hove City Plan Part Two.

5. The hereby approved development shall only be occupied by a maximum of eleven (11) persons.

Reason: To ensure a suitable standard of accommodation for occupiers to comply with policies DM1, DM7 and DM20 of the Brighton & Hove City Plan Part Two.

6. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 and CP11 of the Brighton & Hove City Plan Part One, and DM43 of the Brighton & Hove City Plan Part Two.

7. The development hereby approved shall not be operational until it has achieved as a minimum, an Energy Performance Certificate (EPC) rating 'C'.

Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs to comply with Policy DM44 of the Brighton & Hove City Plan Part Two.

8. Notwithstanding the drawings hereby permitted, prior to the first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority.

The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM33 of the Brighton & Hove City Plan Part Two and SPD14.

9. The development hereby approved shall not be occupied until the refuse and recycling storage facilities as shown on the approved plans have been installed and made available for use.

The approved facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policies CP8 of the Brighton & Hove City Plan Part One, DM20 of the Brighton & Hove City Plan Part Two, and WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals 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. The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of condition 3.
3. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.
4. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: www.hse.gov.uk/asbestos
5. The applicant is advised that this decision relates to the planning use of the property as a sui generis House in Multiple Occupation only and the application should ensure all other necessary HMO licences are obtained from the Private Sector Housing Team.
6. In order to be in line with Policy DM33 (Safe, Sustainable and Active Travel) 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 the Police approved Secure By Design cycle stores, "bunkers" and two-tier systems where appropriate.

2. SITE LOCATION

- 2.1. The application site is a two-storey detached building with habitable roof space, on the northeast side of Dyke Road. The original building has been enlarged with extensions and the front garden has been converted into a car park; nevertheless, the building remains respectful of its original character and that of the wider streetscene. There is a council-owned street tree in front of the site.
- 2.2. The property would have been built as a single dwellinghouse, but it appears to have been in operation as a mixed use with a (C3) flat on the ground floor and a (sui generis) large house in multiple occupation (HMO) on the upper floors since November 2013. There is no planning history that the change of use from (C3) dwellinghouse to the existing arrangement had the benefit of planning permission, and it is considered by the Local Planning Authority that this represents a breach of planning control. The property has held an HMO licence since at least as early as April 2014.
- 2.3. It has been considered that the change of use from a single dwellinghouse to two (C3) flats would have become immune from enforcement action (and therefore lawful by default) after four years (therefore achieving immunity in November 2017), then either unit would have been able to change into an HMO using the permitted development rights afforded by Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) until these rights were removed by the city-wide Article 4 Direction introduced in October 2020. Therefore, the breach of planning control is considered to be somewhat of a technicality as it could have been avoided were the changes to the original building undertaken in a different order.

3. RELEVANT HISTORY

- 3.1. **BH2022/02806** Change of use and conversion of a single dwellinghouse (C3) to form 5no bedroom small house in multiple occupation (C4) on first & second floors and 2no bedroom flat (C3) on ground floor with external alterations including provision of cycle storage, replacement fenestration and additional amenity space for ground floor flat (retrospective). Withdrawn

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought to use the building as a single large HMO with seven bedrooms and eleven bed-spaces. External alterations include window replacements and relocations, as well as relocation of the front door, and installation of a shed and secure cycle parking.

5. REPRESENTATIONS

5.1. Seven (7) representations have been received, objecting to the proposal on the following grounds:

- It is unknown if more than 10% of the dwellings within 50m of the application site are in use as HMOs.
- Loss of a family home
- The building is currently unsightly, and this will get worse with more inhabitants.
- Overdevelopment
- Detrimental impact on local highway including parking provision.
- Potential of delivery scooters being parked on the property.
- Littering
- Noise nuisance
- Light pollution from security lighting
- Clarification on why security is required.
- Anti-social behaviour such as late-night parties/gatherings
- Unknown 'if the applicant is a suitable person to run a large HMO'. Lack of contact details.
- Lack of public consultation and advertisement of the application.
- Clarification on whether the property will be an Air B'n'B party house.
- Detrimental impact on property value.
- The development is not fair on local residents.
- The proposed development would fail to meet HMO Licensing Standards due to the lack of two fully equipped kitchens.
- The head rooms annotated in the loft-level bedrooms may be incorrect.

5.2. Concerns have been raised that local residents were not properly advised about the application or consulted. This application was advertised in accordance with the LPA's consultation procedure, with adjacent properties being sent letters and the scheme being advertised on the Council's website.

6. CONSULTATIONS

6.1. Private Sector Housing

No Comment

6.2. Transport

No Objection, subject to the inclusion of conditions:

- The applicant is proposing seven cycle parking spaces within the back garden of the property, this is in accordance with Supplementary Planning Document 14: Parking Standards. However, we do require further details regarding cycle parking via condition.
- The applicant is proposing the retention of the two parking spaces in front of the property, and this is in accordance with SDP14.
- The two additional bedrooms are unlikely to significantly increase trips to the site compared to the existing arrangement.

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 City Plan Part Two (adopted October 2022);
 - 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 (JAAP) 2019.

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1 Presumption in Favour of Sustainable Development
SA6 Sustainable Neighbourhoods
CP8 Sustainable Buildings
CP10 Biodiversity
CP11 Flood Risk
CP12 Urban Design
CP21 Student Housing and Housing in Multiple Occupation

Brighton & Hove City Plan Part Two

DM1 Housing Quality, Choice and Mix
DM7 Houses in Multiple Occupation (HMOs)
DM18 High quality design and places
DM20 Protection of Amenity
DM21 Extensions and alterations
DM33 Safe, Sustainable and Active Travel
DM35 Travel Plans and Transport Assessments
DM36 Parking and Servicing
DM37 Green Infrastructure and Nature Conservation
DM40 Protection of the Environment and Health - Pollution and Nuisance
DM43 Sustainable Drainage
DM44 Energy Efficiency and Renewables

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of development; the design and appearance of the proposed development; the standard of accommodation that would be offered to future residents, and the potential impacts on the amenities of local residents and business-users and on highway safety.

Principle of Development

- 9.2. Concerns have been raised in the representations received that the proposed development would lead to the loss of a family home and the use would be out of character of the area, which is made up of privately-owned family dwellings. Whilst there is a predominance of dwellings in the area there are also several flats in the area as well as commercial premises including a doctor's surgery. It is not considered that the introduction of an HMO in the area would have an adverse impact on the character of the area in principle and the development should be assessed against the relevant development plan policies such as CP21 (Student Housing and Housing in Multiple Occupation) of the CPP1 and DM7 (HMOs) of the CPP2.
- 9.3. The development plan allows in principle the change of use from C3 dwellinghouses to HMOs, and the loss of a family home in such an instance is not a reason to refuse planning permission. Although a certain type of housing is lost, HMO-based accommodation also contributes to the housing stock of the city for those unable to afford their own dwelling.
- 9.4. Although the proposed development would formally change the use class away from C3, some weight must be given to the fact that the building has not been in use as a single dwellinghouse since 2013, with no formal complaints being received by the Local Planning Authority until 2023 when the first of two planning applications was made.
- 9.5. A mapping survey has been undertaken and concluded that of the thirty-three (33) residential properties within 50m of the curtilage of the application site, none are currently in authorised use as a house in multiple occupation. If this application were permitted, the application site would become the only authorised HMO in the immediate area, bringing the total percentile of HMOs to approximately 3%, well within the 10% allowance within policy CP21 of the CPP1.
- 9.6. Representations received against the application has requested that officers visit every property within 50m to verify the mapping exercise and to establish if there are any properties operating as unauthorised HMOs. This is not considered reasonable or necessary as unauthorised HMOs are not counted for the purposes of assessment under Policy CP21. Any suspected unauthorised HMOs can be reported to the Planning Enforcement team who may carry out an investigation.
- 9.7. The wider neighbourhood area reveals a total of twelve HMOs out of a total of over one thousand, one hundred residential properties, or approximately 1.05% of the total, comfortably within the 20% allowance stated in policy DM7 of CPP2. The proposal would not result in a non-HMO being sandwiched between two

HMOs or lead to a continuous frontage of three or more HMOs. The standard of accommodation to be provided to future residents shall be assessed later in this report. Given the above, there is no objection in principle to the change of use from C3 dwellinghouse to large HMO.

Impact on Amenities

- 9.8. The proposed external alterations do not raise any significant concerns in terms of the impact on neighbouring amenity. New or replacement windows in the northwest side elevation have the potential to cause loss of privacy for residents at no.250 due to the proximity of the new windows to the side elevation of this neighbouring property. A condition is recommended requiring that they be fixed shut and fitted with obscure glazing to an internal height of no less than 1.7m. These windows serve a shower room, an ensuite and staircase landings respectively, so this should not prejudice the standard of accommodation of future occupants of the application site.
- 9.9. The change of use to create an eleven-occupant HMO is likely to generate a greater noise output than would a typical (C3) single dwellinghouse, as it would house a greater number of adults who would be more likely to have more varied routines, in terms of comings and goings from the site.
- 9.10. The property has been in use as a unauthorised flat and HMO since 2013 and there is no record of noise complaints being submitted to the Environmental Health Team in this time. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received. Representations received have raised issues of noise disturbances in the past but as advised above there is no record of noise complaints or historical complaints about the use to the planning enforcement team.
- 9.11. The existing layout shows that the building has fourteen bed spaces spread between the ground floor flat and the upper floor HMO. It is not considered reasonable to assume that the proposed development would result in significant additional noise output over the existing unlawful arrangement of a flat and HMO, since the alterations (to convert the existing unauthorised arrangement to the proposed layout) would not result in any net increase in occupancy.
- 9.12. Given the large size of the proposed HMO it is considered reasonable to put in place additional measures to manage such a large group of occupants and safeguard the amenities of local residents; permission would be granted only subject to a property management plan.
- 9.13. Overall, it is considered that whilst the proposal has the potential for greater comings and goings and general noise and disturbance than the current lawful use of the property as a single dwelling or the unauthorised use as a flat and HMO, such potential impacts can be managed and reduced with a robust management plan which would be secured by condition for any potential planning consent.

Standard of Accommodation

- 9.14. 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. These standards have been formally adopted into policy DM1 of the CPP2 and can now be given full weight.
- 9.15. The building provides a gross internal area (GIA) of approximately 230.15m² (discounting areas within the roof space under 1.5m in height). This GIA is measured in conjunction with a qualitative assessment of the usability of the total space in terms of layout and circulation, and the provision of natural light and outlook to determine if a good standard of accommodation would be enjoyed by future residents.
- 9.16. The communal space consists of an open plan kitchen and living room at ground floor with an area of approximately 40m² and the loft-level study which has an area of approximately 7.5m² (including only space with a head height of 1.5m or greater); therefore, approximately 4.3m² would be provided per resident, which is in accordance with the requirements of CPP2 policy DM1 which requires a minimum of 4sqm per resident. Occupants would also have access to the rear garden of the property which has an area of approximately 135m².
- 9.17. Each of the bedrooms has acceptable circulation space and benefit from good natural light and outlook through existing windows (or rooflights in the case of the loft-level bedroom). Each bedroom with the exception of the single person ground floor bedroom 'G2' benefits from an ensuite, and there is a communal shower room/toilet on each level.
- 9.18. The two bedrooms at ground floor level share the floor with the communal space and could be vulnerable to noise nuisance from the communal spaces. The impact on room G1 is mitigated by the distance between the room (which is positioned at the front of the house) and the communal space, since the two are separated by the entrance hallways and two sets of doors. Room G2 shares a wall with the communal space but it is considered that this is one of the original external walls of the dwelling and is thick enough to mitigate some noise transference. The room is also separated from the communal space by two doorways. It is considered that the impact from noise from the communal space would be acceptable for future occupiers.
- 9.19. It is considered that the standard of accommodation that would be offered would be sensitive to changes in the internal layout and the LPA would wish to manage any future alterations in the interest of safeguarding the amenities of occupants; for this reason, it is recommended that the internal layout will be secured through a condition. It is also important that the number of occupants does not exceed what the building can reasonably be expected to accommodate, so a further condition is recommended which would limit the number of occupants to eleven.
- 9.20. Concerns have been raised in the representations received that the proposed layout would not meet the requirements to be granted an HMO Licence; this is separate from Planning process and it is the applicants responsibility to ensure they comply with all regulations.

Design and Appearance

- 9.21. The proposed external alterations are considered to be acceptable. The replacement windows would have white frames and be of similar appearance to the existing. The composite front door with a black colour finish would be non-traditional in appearance and may somewhat detract from the character of the building, but not to the extent that it would be warranted to withhold planning permission. The white paint applied to the existing pebbledash render is considered to result in a brighter and more attractive finish. The proposed cycle shelters and shed would be sited either to the rear of the property or behind the large front boundary hedge; either way they would be modest in scale and concealed from most views.
- 9.22. Concerns have been raised that the application site is currently unsightly and that increased occupancy would exacerbate this. The proposed development includes relatively minor external alterations, but which should result in an improved appearance; it is not considered that an intensified occupancy should necessarily have any significant impact on the appearance of the building.

Impact on the Public Highway

- 9.23. Concerns have been raised that the proposed development would have an unacceptable impact on the local highway due to increased occupancy and associated vehicles requiring parking spaces. The proposed site layout shows space for two cars at the front of the site and a total of seven secure cycle parking spaces (split between the front and rear of the site). These numbers are in accordance with the guidance in Supplementary Planning Document 14: Parking Standards and there is no objection in principle.
- 9.24. The site lies within an area with considerable parking restrictions in force, with double yellow lines along Dyke Road, and the surrounding roads having a mixture of permit-holder parking bays or pay-and-display parking bays. The site lies within Controlled Parking Zone A, so occupants would not be eligible to apply for permits in CPZ P across the road. Based on data from 2021 and 2022, there is an average uptake of 70% in Zone A, indicating some capacity within that zone.
- 9.25. The proposed development involves revising the existing driveway and installing a porous surface. This is considered to be a benefit of the scheme as it should reduce the risk of surface water running off onto the public highway and shall be secured by condition.
- 9.26. It should also be noted that the site is well connected in terms of public transport. The 27 and 77 bus routes go along Dyke Road itself, and the site is within walking distance of Preston Park Railway Station. The city centre itself is also within walking distance and there is cycle parking proposed on the site, reducing occupants' reliance on private motor vehicles.
- 9.27. Concerns have been raised that the proposed development could lead to scooters being parked on the driveway. There is currently no restriction against scooters being parked on the site and this is not proposed to change; noise-

related complaints can be reported to the relevant authority, and this is not considered to be reason to withhold planning permission.

Biodiversity

- 9.28. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees. Though a bee brick could physically be installed around the new entranceway to the building, it would not be near any pollinating plants and would be unlikely to attract a bee; therefore, it is not considered necessary in this instance.

Sustainability

- 9.29. Policy DM44 requires conversions of residential buildings to achieve, as a minimum, an Energy Performance Certificate (EPC) rating 'C'. This can be secured by condition.

Other Considerations

- 9.30. A number of concerns have been raised regarding the impact the proposal will have on property values in the area. This is not a material planning consideration and cannot be taken into account in the determination of the application.
- 9.31. Concerns have been raised that the proposal represents overdevelopment. The external works are fairly limited and physically the building maintains its original character. In terms of occupancy the development would lead to a significant increase above what one might reasonably expect from a single dwellinghouse; however, the property is spacious, and it has been demonstrated that an acceptable standard of accommodation for up to eleven occupants can be achieved. Therefore, it is not considered that the development would be overdevelopment of the site.
- 9.32. Concerns have been raised in the representations received that local residents cannot be sure that the applicant will be a good operator of a large HMO as there are limited details about them in the application form. In the event permission is granted it would apply to the land rather than any individual, so the identity of the applicant is not a material planning consideration and has been given no weight in this assessment.
- 9.33. Clarification has been requested whether the property is proposed to be a short term visitor let or a 'party house'. There is no evidence to suggest that this is the case; use as a short term visitor let would not fall under the sui generis use of a large HMO. In the event the property is let as such this would represent a breach of planning control that could be managed through Planning Enforcement.

Conclusion

- 9.34. The proposed development is considered to be acceptable in principle, in terms of the standard of accommodation that would be offered to residents, its appearance, and the impacts it is anticipated to have on the amenities of local residents and on highway safety.

- 9.35. The potential impact on the amenities of local residents is acknowledged but it is considered that such impacts can be managed through a condition requiring a site management plan, which would be submitted to and approved by the LPA prior to occupation. Further conditions will be included to safeguard the amenities of local residents from overlooking, to ensure a good standard of accommodation is delivered, and to improve the sustainability of the development. It is considered that the benefits of the scheme outweigh the harm in this instance and that planning permission should be granted for the development. For the foregoing reasons the proposal is considered to be in accordance with policies CP8, CP11, CP12 and CP21 of the Brighton and Hove City Plan Part One, and DM1, DM7, DM18, DM20, DM21, DM33, DM35, DM36, DM40, DM43 and DM44 of the City Plan Part Two.

10. EQUALITIES

None identified.

11. CLIMATE CHANGE/BIODIVERSITY

- 11.1. The application site is in a highly sustainable location in terms of transport, with bus routes and Preston Park Railway Station within walking distance. The inclusion of cycle parking within the development would also encourage trips to and from the site by more sustainable means than private motor vehicle.