

<b><u>No:</u></b>	<b>BH2023/03432</b>	<b><u>Ward:</u></b>	<b>Hanover &amp; Elm Grove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Flat 13 St Gabriels 18A Wellington Road Brighton BN2 3DJ</b>		
<b><u>Proposal:</u></b>	<b>Change of use from studio flat (C3) to three bedroom small house in multiple occupation (C4) with installation of front and side dormers and rear rooflights.</b>		
<b><u>Officer:</u></b>	Steven Dover, tel:	<b><u>Valid Date:</u></b>	12.01.2024
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	08.03.2024
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	10.04.2024
<b><u>Agent:</u></b>	Clive Hawkins Architects Ltd 114 Mackie Avenue Brighton BN1 8RD		
<b><u>Applicant:</u></b>	M & S Developments 8 Overhill Way Brighton BN1 8WP		

This planning application was deferred by the Planning Committee on 3<sup>rd</sup> April 2024 as Members required the officer to undertake an internal site visit. This has now been undertaken, with photos to be presented at the Planning Committee meeting.

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	LOC PLN		29 December 2023
Proposed Drawing	24	C	11 March 2024
Proposed Drawing	25		29 December 2023
Proposed Drawing	26		29 December 2023

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 C4 HMO development hereby approved shall be implemented in strict accordance with the layout detailed on the proposed floor plan ref. 24 C received on 11th March 2024 and shall be retained as such thereafter. The layout of the kitchen and living spaces shall be retained as communal space at all times and

shall not be used as bedrooms. Bedroom 3 shall only be used for occupation by one (1) person.

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

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

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

5. The front and side dormers of the development hereby permitted shall match in material, colour, style and size, those of the existing dormers on the front roofslope.

**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies DM18 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.

6. The rooflights hereby approved shall have steel or cast metal frames colour-finished black or dark grey, fitted flush with the adjoining roof surface and shall not project above the plane of the roof.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies DM18 and DM28 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

7. The C4 HMO 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 DM33 of Brighton & Hove City Plan Part 2, 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 relates to a significant detached Victorian two-storey villa, on the eastern side of Wellington Road. Although not located within a conservation area, the building is Locally Listed.

### 3. RELEVANT HISTORY

- 3.1. **BH2023/00659** -: Conversion of roof space to form 1no studio unit (C3) incorporating rear dormers. (Retrospective). Approved
- 3.2. **BH2022/01128** -: Non-material amendment to application BH2021/02079 to allow repositioning of one rear dormer. Refused for the following reason:  
The proposed amendments to approved scheme (BH2021/02079) would be materially different from the scheme as approved and therefore constitute a material amendment with the works falling outside of the scope of the original planning permission.
- 3.3. **BH2021/02079** -: Conversion of roof space to form 3no studio units (C3) incorporating front and side dormers. Approved
- 3.4. **BH2020/02968** -: Conversion of existing 1no three bedroom and 1no two bedroom flats (C3) at first floor level to form 1no one bedroom, 1no two bedroom and 1no three bedroom flats (C3). Refused for the following reasons:
- 3.5. The proposed development would not provide any suitable family accommodation by virtue of insufficient space within the proposed units and so would be contrary to part b) of policy HO9 of the Brighton and Hove Local Plan.
- 3.6. The development would provide an inadequate standard of accommodation in two of the proposed dwellings with insufficient space for the potential level of occupancy and inadequate living areas. For this reason the proposed development is contrary to policy QD27 of the Brighton and Hove Local Plan.

### 4. APPLICATION DESCRIPTION

- 4.1. The application was initially considered at the Planning Committee Meeting on the 3<sup>rd</sup> April 2024. Members raised concerns in respect of the quality of accommodation and light available to future occupiers, due primarily to the proposed HMO being located in the existing roof space with sloping ceilings. Members voted to defer making a decision until internal photos of the existing studio flat were provided, and would then consider if a site visit was required by Members to assess further, or that a determination could be made.
- 4.2. The application seeks approval for the change of use from a studio flat (C3 Use Class) to a three bedroom small house in multiple occupation (C4 Use Class) with the installation of one front roofslope dormer, one side roofslope dormer and two rear roofslope rooflights.

- 4.3. The works would involve predominantly utilising the existing roof space, adjacent to the current studio (flat 13), with the minimal external changes to the bulk and form of the existing building from the proposed new dormers and rooflights only. The existing roof and envelope of the building would otherwise remain unaltered.
- 4.4. The proposed development has been substantially amended during the course of the application due to concerns raised by Officers regarding the quality and amount of space provided for future residents. The application was originally for a five (5) bedroom HMO, this has now been reduced to a three (3) bedroom HMO within the same floorspace. This has increased the size of the proposed bedrooms and living/communal space per future occupant.

## 5. REPRESENTATIONS

5.1. **Objections** from **six (6)** people raising the following issues:

- Adverse effect on/not in keeping with listed building
- Detrimental effect on property value
- Inappropriate Height of Development
- Noise
- Overdevelopment
- Overshadowing
- Poor design
- Too close to the boundary
- Traffic/highways issues

5.2. **Support** from **six (6)** people raising the following issues:

- Good design
- No detrimental effects on neighbourhood

## 6. CONSULTATIONS

- 6.1. **Heritage:** No objection subject to condition  
The proposed front dormer would bring some symmetry to the front elevation. The other elements of the scheme relate to less visible or less significant parts of the building and no objection is raised on heritage grounds. A condition for the proposed dormers to match the existing is recommended.
- 6.2. **Highways:** Verbal Comments No objection  
Acceptable, subject to cycle parking condition
- 6.3. **Private sector housing:** No comment
- 6.4. **Southern Water:** Comment  
Southern Water requires a formal application for any new connection to the public sewer.

## 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 JAAP (adopted October 2019).

## 8. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP14	Housing density
CP15	Heritage
CP19	Housing mix
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
DM28	Locally Listed Heritage Assets
DM33	Safe, Sustainable and Active Travel
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM44	Energy Efficiency and Renewables

#### Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations

## 9.      **CONSIDERATIONS & ASSESSMENT**

- 9.1.      Previously planning permission has been approved and implemented for the conversion of the buildings roof space into 3 flats under BH2021/02079 and BH2023/00659 (Flat 13). These works are complete and included the provision of two rear dormers.
- 9.2.      The main considerations in the determination of this application relate to the principle of the development, the visual impact of the development on the character and appearance of the site and wider area, the standard of accommodation provided for existing and future residents, potential impacts on the amenities of neighbouring properties, and transport and sustainability considerations.

### **Principle of development**

- 9.3.      This application seeks conversion of the existing roof space from 1 no studio unit (C3) to a three bedroom small house in multiple occupation (C4).

### Housing:

- 9.4.      Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. The local housing need figure for Brighton & Hove using the standard method is 2,333 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.
- 9.5.      The council's most recent housing land supply position is published in the SHLAA Update 2023 which shows a five-year housing supply shortfall of 7,786 (equivalent to 1.7 years of housing supply).
- 9.6.      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).
- 9.7.      The NPPF (paragraph 8a) highlights the social objective, that development should support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the present and future generations.
- 9.8.      The proposed development would not alter the amount of residential development in the City as the existing dwelling and that proposed would both fall within residential use Classes. The existing studio is Use Class C3

(dwellinghouses) and the proposed is Use Class C4 (House in multiple occupation) for not more than six residents.

- 9.9. As a principle of development, therefore, the change of use from C3 to C4 has a neutral effect on the current housing shortfall and is given no additional weight in the determination of the application.

Change of use to C4 HMO:

- 9.10. 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."*

- 9.11. A mapping exercise has been undertaken (March 2024) which indicates that there are 178 properties within a 50m radius of the application property, three of which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 1.69%.

- 9.12. Based on the percentage of neighbouring properties in HMO use, which is less than 10%, the change of use to a three (3) bedroom HMO (Use Class C4) would not conflict with the aims of policy CP21.

- 9.13. Policy DM7 of CPP2 includes additional criteria to those set out in Policy CP21, and states the following:

*"Applications for new build HMOs, and applications for the change of use to a C4 use, a mixed C3/C4 use or to a sui generis HMO use, will be permitted where the proposal complies with City Plan Part One Policy CP21 and all of the following criteria are met:*

- a) *fewer than 20% of dwellings in the wider neighbourhood area are already in use as HMOs;*
- b) *the proposal does not result in a non-HMO dwelling being sandwiched between two existing HMOs in a continuous frontage;*
- c) *the proposal does not lead to a continuous frontage of three or more HMOs;*
- d) *the internal and private outdoor space standards provided comply with Policy DM1 Housing Quality, Choice and Mix;*
- e) *communal living space and cooking and bathroom facilities are provided appropriate in size to the expected number of occupants."*

- 9.14. Criterion a) has been assessed (March 2024) and the percentage of HMO dwellings in the wider neighbourhood area has been calculated at 10.63% and therefore criterion a) has been met.

- 9.15. Criterion b) The area has been assessed and it is confirmed that the proposal would not 'sandwich' a non-HMO between two existing HMOs in a continuous frontage; and would not lead to a continuous frontage of three or more HMOs so accords with criterion (c).
- 9.16. Considerations regarding amenity space and communal living (criteria d and e) are set out below.
- 9.17. On this basis, the scheme is considered to accord with policy CP21 of the Brighton and Hove City Plan Part One and policy DM7 of the Brighton and Hove City Plan Part Two.

**Standard of accommodation**

- 9.18. 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. These space standards have now been formally adopted into the Brighton and Hove City Plan Part Two in Policy DM1 and the development is assessed in relation to these standards. Additionally, the proposals are also considered against DM7 which sets the standard for HMOs (including what is expected of communal areas).
- 9.19. The Local Planning Authority considers both quantitative and qualitative issues raised with regards to the standard of accommodation for future occupiers.
- 9.20. The proposal would involve the extension of the existing studio flat and roof void to form a three (3) bedroom small HMO within the roof space.
- 9.21. The standards adopted within DM1, mirror that of the NDSS, and require that new development should have a minimum ceiling height of 2.3 metres for at least 75% of the proposed floorspace. The proposed ceiling heights are shown on the proposed floor plan, with dotted lines showing the extent of the ceiling at 2.3m, 2m and 1.5m (the minimum height proposed).
- 9.22. The proposed C4 HMO would have 3no. bedrooms with a total proposed floor area of 127m<sup>2</sup> above 1.5m height. 63m<sup>2</sup> of this would be above 2.3m in height.
- 9.23. The proposed unit has 3 bedrooms and as 63m<sup>2</sup> of the proposed unit would have a 2.3m ceiling height it is considered that it falls into the category of a 3B5P (three bed - five person) unit with an overall minimum floorspace requirement of 86m<sup>2</sup>.
- 9.24. The proportion of ceiling height over 2.3m is 1.5m<sup>2</sup> below that which would be expected of a 3B5P unit (64.5m<sup>2</sup>) but considering the substantial total floorspace (127m<sup>2</sup>), the slight deficit is considered acceptable in this very specific instance.
- 9.25. The proposed accommodation would comprise a living room/kitchen (39 m<sup>2</sup>), separate storage area, two bathrooms/showers and three bedrooms which vary in size (15sqm - 18sqm), - with two double beds and one single bed indicated due to restricted head height below 2.3m.



- 9.26. The standards set within DM1 require a floorspace of 7.5m<sup>2</sup> for a single bedspace and 11.5m<sup>2</sup> for a double bedspace. Bed 1 and Bed 2 would be 18m<sup>2</sup> (doubles) and Bed 3 would be 15.7m<sup>2</sup> (single – due to restricted head-height). All of the bedrooms would be of adequate size and could accommodate standard bedroom furniture (bed, desk, chair and storage furniture) while maintaining a sufficient amount of circulation space for adult/s to move around. The restricted head height below 2.3m in each of the bedrooms is considered acceptable, due the overall amount of floorspace provided which is well above the minimum required.
- 9.27. The kitchen and living space would allow for sufficient space for occupants to cook and dine together and would exceed the communal space guidelines under Policy DM7 for five persons.
- 9.28. The proposed HMO would be served in terms of bathroom facilities by two shower rooms with associated W.C. and washbasin.
- 9.29. The overall space would be functional with sufficient levels of circulation space, light and outlook and would therefore provide an acceptable standard of accommodation for up to five (5) persons. All the bedrooms proposed meet the government's minimum space standards for the number of occupiers proposed and would have good or sufficient levels of natural light and outlook.
- 9.30. The proposed HMO would not have any outdoor amenity space provided and whilst outdoor space is beneficial to all homes, given the location of the property within the densely populated area of the city where many properties generally 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 sufficient to warrant refusal of the application. In reaching this assessment it is noted that the property is close to The Level and William Clarke parks which are the nearest green and open spaces located to the south west and north east of the site respectively.
- 9.31. The above assessment has been made on the dwelling being used as a three-bedroom, five-person HMO. The ceiling heights and the indicative layout demonstrate that a higher level of occupation would likely result in a cramped living experience for more than five occupants, with insufficient circulating space within the communal areas and bedroom 3 in particular. Conditions are therefore recommended to secure a maximum occupation of five persons and three bedrooms, with the proposed floor plan retained.
- 9.32. Subject to the recommended conditions the proposed HMO is therefore considered in accordance with policies DM1 and DM7 of the Brighton and Hove City Plan Part Two.

### **Design and Appearance**

- 9.33. The proposed works involve reorientation of the existing studio flat and extending into the existing roof void. Two new dormers would be created with both matching the appearance of the current dormers to the building in width, height and form. The new front dormer would be located to the north-west elevation in such a position that it would mirror and balance the existing front

dormers, well located above lower floor windows. The new side dormer located to the north-east elevation would be the first to this roofslope and due to roof form it cannot be located above the existing fenestration. The materials for both would match the existing dormers and roofslope. Due to the matching form, materials and placement on the roof the proposed dormers are considered acceptable, and no objection has been raised by the Heritage Officer with regards to impacting on the historic character and appearance of this locally listed building.

- 9.34. The new rooflights (2) proposed to the rear elevation would be located to the north of the existing rear dormers and roughly in line with the existing fenestration below. Due to the limited visibility in the public realm and located on the rear roofslope these rooflights are considered appropriate.
- 9.35. Subject to conditions to secure appropriate materials and form the proposed dormers and rooflights are considered suitable alterations to the building that would not have any adverse impacts on the appearance of the locally listed building or wider area in accordance with policies CP15 of the City Plan One and DM21 and DM28 of the City plan Part Two.

**Impact on Amenity**

- 9.36. Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause unacceptable loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.37. The impact on adjacent properties has been fully considered in terms of daylight, sunlight, outlook and privacy, and no significant harm has been identified. The new dormers would not affect any other properties with their form, likewise the proposed rooflights.
- 9.38. No increase in overlooking would occur from the front fenestration, as this would overlook parking areas and the highway and already has a high degree of mutual overlooking. To the side and rear the new fenestration overlooks gardens which already sustain a relatively large degree of mutual overlooking from existing residential windows. The slim profile of the dormers and rooflights, set within sloped ceilings of the proposed HMO, mean the potential impact of overlooking is further reduced, limiting oblique views to the neighbouring properties and the amount of outlook.
- 9.39. It is recognised, as raised in comments received, that the dormers/rooflights introduce elevated views into neighbouring gardens however it is considered that the potential amenity impacts of the development do not result in additional significant harm over the existing situation.
- 9.40. The proposed change of use from a studio to a small HMO (for a maximum of 5 persons) may create more comings and goings from the property and in a different pattern to the existing use, however, it is not considered that the additional comings and goings from a small HMO use would amount to a level of noise and disturbance that would warrant refusal of the application, including

to existing residential units in the property as well as neighbouring properties. However this would only be on the basis that sound insulation between the proposed HMO and existing residents is sufficient to mitigate. Therefore a condition would be attached to ensure that adequate sound insulation is provided and verified by the LPA prior to first occupation as an HMO.

- 9.41. The amenity and living conditions of the future occupants has already been assessed and discussed and found acceptable in the standard of accommodation section of this report.
- 9.42. The proposed works would not cause significant harm to amenity in accordance with Policy DM1, DM7 and DM20 of City Plan Part Two.

### **Sustainable Transport:**

#### Cycle Parking

- 9.43. This proposal requires a minimum of three cycle spaces for the proposed HMO. The exact details and provision of this cycle parking will be secured by condition for approval by the LPA prior to first use of the development.

#### Servicing

- 9.44. The applicant is not proposing any significant alteration to the current servicing and delivery arrangements to this site and for this development this is deemed acceptable.

#### Car Parking

- 9.45. The applicant is proposing no new parking spaces associated with the new dwelling. This accords with the Parking Standards in SPD14. Highways Officers have confirmed they find the lack of new onsite parking arrangement suitable and any increase in trips would not have a significant impact on highway network and safety. The site is located with the Controlled Parking Zone (CPZ) V, so any on street parking is controlled via permit.

### **Ecology**

- 9.46. Policy CP10 of the City Plan Part One and DM37 of City Plan Part Two seeks to ensure that all new development proposals conserve existing biodiversity, protecting it from the negative indirect effects of development including noise and light pollution.
- 9.47. 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. In this case as the external works are only to the roof slopes of the existing building the application of conditions for Bee Bricks or Swift Boxes is not considered appropriate.

### **Conclusion**

- 9.48. The proposed development is considered to be acceptable in principle as it meets the requirements of Brighton and Hove City Plan Part Two policies DM1 and DM7. In terms of the design approach the proposal would not result in harm to the appearance and character of the property and would be in accordance with Brighton and Hove City Plan Part Two policies DM18, DM21 and DM28.

The amenity of the existing and future occupiers would not be significantly harmed and accords with policies DM1, DM7 and DM20 of the City Plan Part Two. For the reasons above the proposal is recommended for approval.

### **Community Infrastructure Levy**

- 9.49. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount would be confirmed in the CIL liability notice which would be issued as soon as is practicable after the issuing of any planning permission.

## **10. EQUALITIES**

- 10.1. During the determination of this application due regard has been given to the impact of this scheme in relation to the Equality Act 2010 in terms of the implications for those with protected characteristics namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The works would provide an upper storey HMO in existing property which would not be accessible to those reliant on a wheelchair, but there is no indication that it would otherwise affect those with protected characteristic.
- 10.2. The main property has stepped access. This would not change as part of the development proposed and access would still remain more difficult for those who have restricted mobility or visibility.