

<u>No:</u>	BH2024/02767	<u>Ward:</u>	Westbourne & Poets' Corner Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	1 And 1A Pembroke Crescent Hove BN3 5DH		
<u>Proposal:</u>	Change of use of 2no flats (C3) to a three bedroom small house in multiple occupation (C4) and a five bedroom small house in multiple occupation (C4).		
<u>Officer:</u>	Helen Hobbs, tel: 290585	<u>Valid Date:</u>	14.02.2025
<u>Con Area:</u>	Pembroke and Princes	<u>Expiry Date:</u>	11.04.2025
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>			
<u>Applicant:</u>	Mr Simon Edward Wilcox 1 Pembroke Crescent Hove BN3 5DH		

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	200-GF		13-Jan-25
Proposed Drawing	200-FF		13-Jan-25
Proposed Drawing	200-SF		13-Jan-25
Location Plan	TerraQuest PP-13536900	v1	08-Nov-2024

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 Ground Floor HMO (C4 use) hereby approved shall only be occupied by a maximum of three (3) persons and the First and Second Floor HMO (C4 use) shall 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 DM7 and DM20 of the Brighton and Hove City Plan Part Two.

4. The HMOs uses hereby approved shall only be implemented in strict accordance with the proposed layout detailed on the proposed floor plans ref. 200-GF, 200-FF and 200-SF, received on 13th January 2025 and shall be retained as such thereafter. The layout of the kitchen/dining space and living room shall be retained as communal space at all times and shall not be used as bedrooms.

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

5. Prior to first occupation of either of the small HMOs uses hereby approved, details of secure cycle parking facilities to the rear of the property, 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.

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. **Restriction on Entitlement to Parking Permits**
Existing Controlled Parking Zone/Residents' Parking Scheme: You are advised that details of the development will be passed to B&HCC as Traffic Authority administering the Controlled Parking Zone, of which the development forms part, so they can determine whether occupiers should be eligible for residents' parking permits.

2. SITE LOCATION

- 2.1. The application relates to a two-storey detached building, with accommodation within the roof level. The property is currently divided into a ground floor flat with three bedrooms, and a maisonette with five bedrooms across the first floor and converted roof space.
- 2.2. The property lies within the Pembroke and Princes Conservation Area. The site is subject to the city wide Article 4 direction removing Permitted Development rights for changes of use to small houses of multiple occupation.

3. RELEVANT HISTORY

- 3.1. BH2020/02754 Alterations to front boundary to create larger opening for driveway with vehicle crossover. Installation of electric car charge point. Refused 30.11.2020.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks permission for the change of use of two flats (planning use class C3) to a three bedroom small house in multiple occupation (HMO)(planning use class C4) at ground floor level, and a five bedroom small HMO (C4) at first and second floor levels.

5. REPRESENTATIONS

- 5.1. In response to publicity, responses were received from ten (10) individuals, objecting to the application and raising the following issues:
- Pressure on local services
 - Anti social behaviour
 - Number of HMOs in the area
 - Increase in noise
 - Impact on parking
 - Management of HMOs
 - Overdevelopment
 - Loss of family housing
 - Impact on property prices
 - Impact on conservation area

6. CONSULTATIONS

Internal:

- 6.1. **Planning Policy:** No comments to make
- 6.2. **Private Sector Housing:** No comments to make
- 6.3. **Transport:** Verbal comments
The proposed development would generate significant overspill parking in an area controlled by CPZ that is already at or near capacity. The applicant is advised that this application would currently be classed as car-free development and the LHA will seek to add it to the Council car-free properties' register and advise that any future residents would be restricted from applying for parking permits.
- 6.4. No cycle parking on site has been proposed. There is available space on site therefore further details of cycle parking should be requested via condition.
- 6.5. The proposed development is likely to increase the number of trips to the area. Considering the size of the development the highways impact would not be expected to be significant and would not therefore be grounds for objection under the National Planning Policy Framework.

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, revised October 2024);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).

8. RELEVANT POLICIES & GUIDANCE

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
CP12	Urban design
CP15	Heritage
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
DM20	Protection of Amenity
DM26	Conservation Areas
DM33	Safe, sustainable and active travel
DM36	Parking and servicing

Supplementary Planning Documents:

SPD14	Parking Standards
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9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to whether the change of use is compliant with policy, the standard of accommodation, the impacts of the development on neighbour amenity and transport matters.

Principle of Proposed Change of Use:

- 9.2. The application seeks consent for the change of use from two flats within the building to two small houses in multiple occupation (HMO) (C4)). 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 HMO 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."*
- 9.3. A mapping exercise has been undertaken (April 2025) which indicates that there are 80 dwellings within a 50m radius of the application property, 2 of which have been identified as being in HMO use. The percentage of neighbouring dwellings in HMO use within the radius area is thus 1.6%. This is significantly below the maximum the policy seeks to control.
- 9.4. Given the low percentage, it is worth noting that if the two separate HMOs that are now proposed had applied separately under individual applications at differing times, the first proposal would not negatively impact on the second proposal.
- 9.5. Based on the existing percentage of neighbouring dwellings in HMO use, which is less than 10%, the change of use to two small HMOs (C4 use) would not conflict with the aims of policy CP21.
- 9.6. Policy DM7 of CPP2 is also relevant, and 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."*
- 9.7. Criterion a) has been assessed and the percentage of dwellings in the wider neighbourhood area in HMO use has been calculated at 1.6%, so it has been amply met.

- 9.8. In relation to criterion b), it is confirmed that the proposal would not 'sandwich' a non-HMO between two existing HMOs; and would not lead to a continuous frontage of three or more HMOs so also accords with criterion (c).
- 9.9. Considerations regarding amenity space and communal living, criteria d) and e), are set out below.
- 9.10. Based on the above, the principle of locating 2 small HMOs on this site is considered to accord with Policy DM7 of CPP2 and CP21 of the CPP1.

Standard of Accommodation:

- 9.11. No internal or external alterations to the property are proposed. The layout of the proposed HMOs are to remain the identical to the existing flats.
- 9.12. The proposed standard of accommodation is being considered against Policy DM1 of CPP2 which incorporates the minimum space standards within the Nationally Described Space Standard (NDSS) into the development plan. The requirement to meet these standards is further emphasised within criteria d) and e) of Policy DM7 of CPP2.

Ground floor 3 bedroom HMO

- 9.13. The communal area within the property is just over 14sqm, so it does exceed the 4sqm per person for a maximum occupation of three individuals within the HMO. The communal area provides ample space for food preparation, dining and living. The property has three bedrooms, all of which are spacious and exceed the minimum standards. The property would have one shared bathroom.
- 9.14. The bedrooms would each have windows and allow for natural light, outlook and ventilation.

First Floor and Second Floor 5 bedroom HMO

- 9.15. The communal area within the property is just over 25sqm, so it does exceed the 4sqm per person for a maximum occupation of five individuals within the HMO. The communal area provides ample space for food preparation, dining and living. The property has five bedrooms all of which are spacious and exceed the minimum standards. The property would have bathrooms on both floors.
- 9.16. The bedrooms would each have windows and allow for natural light, outlook and ventilation.

Outdoor space

- 9.17. The property does have external space at ground level but it has not been made clear who would have access. Given both properties have external ground floor entrances, both units could access the rear garden which then would not be considered strictly 'private' amenity space as it would be a shared communal space. Whilst the garden is not overly large and would be shared, it would still provide for an extra amenity area in addition to the communal space and is considered adequate to serve the new residents. It is also noted that the previous use as a two flats experienced a similar arrangement. The units are also centrally located close to local amenities and outdoor spaces.

- 9.18. A condition is recommended to ensure that the layout shown on the approved plans is retained in perpetuity to ensure that the bedrooms are not reduced in size and that the communal space is retained for the amenity of future residents.
- 9.19. Overall, it is considered that the layout of the property as two small HMOs would provide suitable standard of accommodation for the number of occupants proposed and is therefore in accordance with policies DM1 and DM7 of the City Plan Part Two.

Impact on Amenity:

- 9.20. Policy DM20 of City Plan Part Two states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.21. The change of use from two flats to two small HMOs could create more comings and goings from the property and in a different pattern to the previous use. However, it is not considered that this would amount to such substantial harm to neighbouring properties to warrant refusal of the application when compared to the use as two dwellinghouses. The number of bedrooms is not being increased. The site is detached, which is a mitigating factor, and located within an already established residential neighbourhood.
- 9.22. The internal relationship between the two proposed HMOs has also been considered in terms of their impact on each other. However, given the small scale of the HMOs and the retention of the existing number of bedrooms, the change of use would not cause a significant increase in impact between the ground floor unit and the upper floors unit.
- 9.23. As noted above, the application site is not in an area which currently has more than 10% of properties within 50m radius being in HMO use or 20% of the wider neighbourhood area. While any additional HMOs may have the potential to increase the cumulative impact and harm to amenity with which they can be associated, in this instance the existing numbers of HMOs in the area is not enough to warrant refusal of the application on the grounds of potential amenity impact.
- 9.24. Accordingly, the development would be considered acceptable in terms of any impacts on neighbouring amenity. It is also noted that the proposal complies with policy DM20 of the City Plan Part Two.

Sustainable Transport:

The proposal will likely result in increased comings and goings, however as set out above, the impact is not considered to be significant. The proposals may lead to more demand for parking in the area.

- 9.25. The application site is located close to a number of bus routes with connections all over Brighton and Hove. There are local amenities within walking distances. Therefore residents do not need to rely on a private car. The site is also within a

Controlled Parking Zone (CPZ) where a residents parking permit scheme is in operation. Whilst the Transport officer has indicated that the CPZ is near to capacity, the CPZ will itself adequately control such matters. In addition, the applicant has been advised that the LHA would seek to add the properties to the 'car free' properties register to restrict occupiers from applying for a residents parking permit.

- 9.26. No cycle parking has been shown on the submitted plans. There is scope to provide policy compliant cycle parking to the rear of the site. A condition will be attached to secure further details.
- 9.27. Accordingly, the proposal is considered to comply with policies CP9 of the City Plan Part One and policies DM33 and DM36 of the City Plan Part Two.

Impact on the Conservation Area

- 9.28. In considering whether to grant planning permission the council has a statutory duty to have special regard to the desirability of preserving or enhancing heritage assets such as conservation areas or their settings. Case law has held that the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".
- 9.29. The proposal does not involve any physical alterations and the appearance of the property will remain the same. The proposed small HMO use is a residential use and, whilst it may be more intensely used, it would not compromise the overall residential character of the conservation area.

Biodiversity Net Gain (BNG):

- 9.30. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat.

Conclusion and Planning Balance:

- 9.31. The principle of the change of use is considered acceptable and complies with policies CP21 and DM7. The change of use would not cause significant harm to the character of the area and would not substantially detract from the amenity of neighbouring properties. The development would not have a significant impact on the highway.

10. EQUALITIES

Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 10.1. Officers considered the information provided by the applicant, together with the responses from consultees and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

