
Appeal Decision

Site visit made on 11 November 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/Q1445/W/25/3370838

5 Grafton Street, Brighton BN2 1AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Tom Evans against the decision of Brighton & Hove City Council.
 - The application Ref is BH2025/00126.
The development proposed is the change of use from single dwellinghouse (C3) to a seven-bedroom large house in multiple occupation (*Sui Generis*).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from single dwellinghouse (C3) to a seven-bedroom large house in multiple occupation (*sui generis*) at 5 Grafton Street, Brighton BN2 1AQ in accordance with the terms of the application, Ref BH2025/00126, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following drawings:
 - Existing and Proposed Floor Plans 24.59_PL_002 B dated March 2025; and
 - Existing and Proposed Floor Plans 24.59_PL_003 A dated June 2025.
 - 3) Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be made available for use prior to the first occupation of the development and shall be retained for the lifetime of the development.
 - 4) The kitchen / dining / living space shown on drawing 24.59_PL_002 B shall be retained for the lifetime of the development, made available for use as communal space at all times, and shall not be used as bedrooms.
 - 5) The *sui generis* Large HMO hereby approved shall be occupied by a maximum of seven (7) persons.

Applications for costs

2. An application for costs was made by Mr Tom Evans against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant has confirmed that following submission of the appeal application the description of development was changed to the description set out on the Council's decision notice. Therefore, I have based my decision on that revised description of development.
4. The appellant has also submitted an amended drawing (24.59_PL_003 A dated June 2025) which changes the layout of the third-floor bedroom by removing a division between it and its associated kitchenette, thereby making a larger combined room. The Council has objected to this, arguing that it would be a substantive material change because the bedroom would now be suitable for occupancy by two people and that it would cause procedural harm to third parties.
5. However, the appellant has clearly noted in its Statement of Case that the proposed house in multiple occupation (HMO) would continue to be for 7 people and this is a matter that is capable of being controlled by way of a planning condition. Thus, the only difference would be the removal of an internal division in one of the units and I consider that this does not represent a substantive change. Furthermore, given that the appeal application also sought permission for a 7-person HMO I find that there would not be any procedural harm to third parties who, like the Council, have also had the opportunity to comment on the revised drawing during the appeal process. Therefore, I will consider this appeal on the basis of the amended drawing.

Main Issue

6. The main issue is whether the proposal would provide acceptable living conditions for the future occupiers of the dwelling in respect of the communal space available.

Reasons

7. Policy DM7 of Brighton & Hove City Council's City Plan Part Two (2022) (CPP2) says that in HMOs, communal living space and cooking and bathroom facilities should be provided according to the expected number of occupants. The supporting text notes that the minimum size of usable communal living space should be 16m², equating to 4m² per person, assuming a small four-person HMO, and that for HMOs accommodating more residents, proportionately more communal lounge space should be provided. Thus, for a 7-person HMO 28m² would be sought.
8. Whilst the Council has noted that the proposed communal space would be 28.25m², in its officer report it has said that this has only been achieved by using floor area from the existing under stairs cupboard, the stair area and the meter cupboard, that this is not in the spirit of the policy, and that it follows from the drawings that the actual usable communal space falls below 28m². However, the officer report does not quantify the extent of any shortfall.
9. The supporting text to Policy DM7 indicates that other factors such as the usability and configuration of the space should also be taken into account. When I visited the site I saw that a new kitchen had been fitted. The meter cupboard had been removed and there was no central peninsula, resulting in what appeared to be a more open and spacious layout than that illustrated on the submitted drawings. I

also noted that there would be space for furniture in the living area without impeding circulation or blocking doors.

10. The supporting text to Policy DM7 also states that the size of the bedrooms and the extent of their ability to function as social areas will be taken into account in determining whether communal space provision is sufficient. All bedrooms would exceed the minimum 7.5m² for single-occupancy rooms per CPP2 Policy DM1 with one room exceeding 10m² and two other rooms exceeding 11m². The top floor bedroom with kitchenette would be approximately 15m². All bedrooms would have *en suite* toilet and shower rooms.
11. Whilst noting the Council's comments in relation to the calculation of the amount of communal space and the limited outdoor amenity space associated with the appeal property, based on my observations of the space and taking account of the quality of the accommodation overall, I find that the communal living space and cooking facilities would be appropriate in size to the expected number of occupants.
12. When I visited the site I also noted that the proposed communal area comprised a large dual aspect room and that whilst there was restricted natural light and outlook because of its location in the basement, the window to the street and the door to the lightwell would enable the space to be naturally ventilated. Overall, it did not feel oppressive and once furnished could represent a pleasant, good quality communal living space.
13. Therefore, I find that the communal space would not be substandard and that the appeal scheme would comply with CPP2 Policies DM1 and DM7 which together seek to ensure that HMO accommodation provides satisfactory living conditions.

Other Matters

14. The appeal site is located within the East Cliff Conservation Area (CA) and is close to a number of listed buildings. In making this decision I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. In addition, Section 66(1) of the Act requires decision-makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
15. No external works are proposed as part of the appeal scheme and I consider that the change of use would have a neutral effect on the CA and the settings of the nearby listed buildings. Therefore, the appeal scheme would preserve the character and appearance of the CA and the settings of the nearby listed buildings.

Conditions

16. I have reviewed the conditions proposed by the Council in light of the tests in the National Planning Policy Framework and advice in the Planning Practice Guidance.
17. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. Following the Council's

transport consultee's comments, I have attached a condition to ensure that the appeal scheme complies with CPP2 Policy DM33 in respect of cycle parking.

18. In light of the Council's policies, a condition to ensure that sufficient communal space will continue to be available is necessary, as is a condition which limits the occupancy of the HMO given that there would not be sufficient communal space in the approved scheme to support an increase in the number of occupiers.

Conclusion

19. The appeal scheme complies with the development plan when taken as a whole and there are no material considerations that suggest that a decision should be taken other than in accordance with the development plan. Therefore, for the reasons given above the appeal should be allowed.

P Burley

INSPECTOR