

Topic – Housing, Accommodation and Community

DM1 Housing Quality, Choice and Mix

The council will seek the delivery of a wide choice of high quality homes which will contribute to the creation of mixed, balanced, inclusive and sustainable communities.

Proposals for new residential development will be required to:

- a) incorporate a range of dwelling types, tenures and sizes that reflect and respond to the city’s identified housing needs (see also City Plan Part One policies SA6, CP14, CP19, CP20⁶); and,**
- b) make provision for a range and mix of housing /accommodation formats subject to the character, location and context of the site for example, self and custom build housing, build for rent, community led housing, starter homes and other types of provision supported by national and local policy.**

In addition, planning applications for new residential development (including residential extensions and residential accommodation falling outside Use Class C3) will be expected to comply with the following requirements:

- c) all residential units should meet the nationally described space standards⁷;**
- d) all residential units should as a minimum be accessible and adaptable in accordance with Building Regulation M4(2)⁸;**
- e) for proposals providing 10 or more dwellings, 10% of the affordable residential units and 5% of all the residential units should be suitable for occupation by a wheelchair user in accordance with Building Regulation M4(3)⁹. Where this is not practicable on-site an equivalent financial contribution should be provided¹⁰; and**

⁶ See also the Objectively Assessed Need Report 2015 (GL Hearn) and subsequent updates.

⁷ The nationally described space standards as set out in the policy or as amended. Residential accommodation that does not fall within a C3 use class (e.g extra care accommodation, assisted living housing and Housing in Multiple Occupation) and residential extensions will be expected to meet the standards where relevant. As a minimum such accommodation should meet the standards for bedroom sizes, storage, ceiling heights and provision of level access.

⁸ Building Regulations M4(2) or as amended.

⁹ Building Regulations M4(3) or as amended.

¹⁰ PartM4(3) - the extra cost per dwelling to provide was assessed in the CIL Viability Study (2017) to be £26,816 for houses and £15,691 for flats. These figures will form the basis for any financial contribution for off-site provision, taking into account inflation. The council will publish updated Technical Guidance on Developer Contributions following the introduction of CIL.

- f) all new residential development will be required to provide useable private outdoor amenity space appropriate to the scale and character of the development.

Exceptions to criteria c) – e) will only be permitted where the applicant has provided a robust justification and the council is satisfied that particular circumstances apply.

The Nationally Described Space Standards are to be applied as shown below (October 2015 or as subsequently updated):

Table 2 - Minimum gross internal floor areas and storage (sq.m)

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey residential units	2 storey residential units	3 storey residential units	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	
4b	5p	90	97	103	3.0
	6p	99	106	112	
	7p	108	115	121	
	8p	117	124	130	
5b	6p	103	110	116	3.5
	7p	112	119	125	
	8p	121	128	134	
6b	7p	116	123	129	4.0
	8p	125	132	138	

Technical Requirements:

- the residential unit provides at least the gross internal floor area and built-in storage area set out in Table 2 above*
- a residential unit with two or more bedspaces has at least one double (or twin) bedroom*
- in order to provide one bedspace, a single bedroom has a floor area of at least 7.5 sqm and is at least 2.15m wide*
- in order to provide two bedspaces, a double (or twin bedroom) has a floor area of at least 11.5m*
- one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide*

- f. any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage (if the area under the stairs is to be used for storage, assume a general floor area of 1sqm within the Gross Internal Area)
- g. any other area that is used solely for storage and has a headroom of 900 - 1500mm (such as under eaves) is counted at 50% of its floor area, and any area lower than 900mm is not counted at all
- h. a built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements, but should not reduce the effective width of the room below the minimum widths set out above. The built-in area in excess of 0.72sqm in a double bedroom and 0.36sqm in a single bedroom counts towards the built-in storage requirement
- i. the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area

Notes (added 19 May 2016):

1. Built-in storage areas are included within the overall GIAs and include an allowance of 0.5sqm for fixed services or equipment such as a hot water cylinder, boiler or heat exchanger.
2. GIAs for one storey dwellings include enough space for one bathroom and one additional WC (or shower room) in dwellings with 5 or more bedspaces. GIAs for two and three storey dwellings include enough space for one bathroom and one additional WC (or shower room). Additional sanitary facilities may be included without increasing the GIA provided that all aspects of the space standard have been met.
3. Where a 1b1p has a shower room instead of a bathroom, the floor area may be reduced from 39sqm to 37sqm, as shown bracketed.
4. Furnished layouts are not required to demonstrate compliance.

Supporting Text

2.1 National planning policy encourages local authorities to deliver a wide choice of quality homes by planning for a range and mix of housing based on current and future demographic trends, market trends and the differing needs of various sectors of the community¹¹. Policies SA6, CP14, CP19 and CP20 in the City Plan Part One set out the general approach for the provision of a range of housing types, sizes and tenures.

2.2 Future development should seek to provide for a diverse range and mix of tenure blind housing products within the local housing market including the affordable sectors. This is necessary to meet the housing needs of the city, including units suitable for families, older people, people wishing to build their own homes and Starter Homes.

2.3 In addition, housing quality also encompasses other aspects which can have a direct and critical impact on the health and well-being of occupiers, including internal space, accessibility and adaptability, and suitably adapted homes to support independence at home.

2.4 Brighton & Hove has some of the most deprived areas in the South East and has a population with significant health needs and inequalities¹². Much of the existing housing stock in the city is formed from flats in converted buildings and much is inaccessible for many people. People are living longer and wish to live

¹¹ National Planning Policy Framework (NPPF) (2019) paragraph 61

¹² Joint Strategy Needs Assessment (2017) Executive summary and in section titled "Our Population".

independently. This brings with it a planning responsibility for ensuring that homes are capable of responding to the changing lifetime needs of the city's population.

2.5 The importance of internal space and layout in the delivery of quality homes within the city has long been recognised by the council. Since 2005 it has applied lifetime home standards to all new dwellings and required the provision of a proportion of wheelchair accessible units, within schemes of 10 or more units. These standards were superseded and replaced in 2015 by new optional standards set by Government subject to inclusion in a development plan policy.

2.6 The three standards being applied by virtue of this policy include the optional Nationally Described Space Standards, which cover minimum gross internal floor, ceiling heights and storage space requirements. The wider lifetime home and wheelchair user requirements are addressed in optional provisions in the Building Regulations [M4(2) and M4(3)]. These standards are enforced through building regulations with the requirements applied through planning policy by way of condition attached to planning consents. The policy sets out the space standards at the time of writing but the policy will apply in respect of any future revision to the national optional standards or approach.

2.7 The council will expect all forms of residential accommodation to have regard to these standards including those not considered to fall within the C3 use class. Such accommodation can include Houses in Multiple Occupation (HMOs), extra care, assisted living and other such schemes designed for frailer older people or others with disabilities and those in need of care or support. In respect of a property being extended, the new extension will be expected to accord with the respective standards and it must not make the existing accommodation worse.

2.8 It is recognised that there may be some instances when an exception to an element of the requirements might be justified. For example, it may not be viable to provide level access via a lift to all units within small residential schemes. In such instances the accessible and adaptable standard should be met as far as possible applying where practicable an alternative solution to lift provision, such as an accessible stairway capable of providing a stair lift. A flexible approach to the standards might also be justified with regard to a conversion of a listed building. Where it is considered full compliance with the standards would not be possible, applicants must address this at an early stage in the planning process and involve a building control officer when considering alternative solutions. Robust justification for exceptions will be required.

2.9 National planning policy makes clear planning authorities should plan positively to meet a full range of housing needs. Self or custom build housing is housing built

or commissioned by individuals (or groups of individuals) for their own occupation¹³. The council is required to keep a register of individuals and groups of individuals who are seeking to acquire serviced plots of land in their area in order to build homes for those individuals to occupy. This provides information regarding the demand for custom/ self-build plots in Brighton & Hove. The council is keen to support and encourage individuals and communities who want to build their own homes.

2.10 Proposals for community led and self/custom build housing will be supported on appropriate sites throughout the city. Opportunities to make available serviced plots of land for self/custom build housing are restricted by the limited availability of greenfield development sites and the generally constrained land supply. However, the sites allocated on the city's urban fringe offer particular scope for providing serviced land for this type of housing and this is encouraged in Policy H2.

2.11 The policy also requires that an element of useable private outdoor amenity space is provided for the occupants of new residential development. Private amenity space can make an important contribution in improving the health, well-being and general quality of life of the city's residents. It also has the potential to support and enhance local biodiversity and can contribute to existing ecological and green infrastructure networks. The provision of space for seating, play, drying and storage space is part of securing good design and a good standard of residential development in the city.

2.12 It is recognised that Brighton & Hove has a variety of townscapes with different densities, dwelling types and sizes. In considering the type and amount of useable private amenity space the council will have regard to the type, scale, location and context of residential development. It is accepted that it may be difficult to provide outdoor amenity space where development involves conversion of existing buildings, particularly with regard to upper floors. Appropriate forms of provision include gardens, balconies, patios, roof terraces and shared amenity spaces in flattened forms of development. Factors such as access to the amenity space, its orientation, scope for privacy, size and usability will be key considerations. It will also be important to ensure, where relevant, that outdoor space is appropriate to the needs of intended occupiers, e.g. in the case of housing for older people and/or specialist housing for disabled people.

2.13 Outdoor amenity space for dwelling units should provide sufficient space to accommodate a table and chairs suitable for the size of the dwelling and, where relevant, space for refuse and recycling bins, an area to dry washing and circulation space. Where sites are constrained it may still be possible to achieve innovative and useable solutions to the delivery of outdoor amenity space.

¹³ The Community Infrastructure Levy Regulations include a definition of "self-build housing" as a dwelling built by (or commissioned by) someone to be occupied by them as their sole or main residence for at least three years.

DM2 Retaining Housing and residential accommodation (C3)

The council will seek to resist any net loss of existing residential accommodation (Use Class C3) in the city. Planning applications that result in the loss of residential accommodation will not be permitted unless one or more of the following exceptions apply:

- a) it can be demonstrated that the accommodation cannot be rehabilitated or redeveloped to achieve satisfactory housing standards required by other policies in the City Plan;**
- b) the proposal would result in a net gain in units of affordable housing;**
- c) the loss would enable sub-standard residential units to be enlarged to meet residential space standards (in accordance with Policy DM1 Housing Quality, Choice and Mix);**
- d) the proposed change of use will provide a local community service/ facility that meets an identified need;**
- e) it can be demonstrated that a proposed change of use is the only practicable way of preserving the special architectural or historic interest of a listed building or other building of heritage significance; or**
- f) where the previous use of the building would be a material consideration.**

Proposals for the de-conversion / amalgamation of C3 residential units involving a net loss will be considered on their merits and with regard to assessments of local housing need/demand.

NB Policies CP21 and DM7 will be applied to proposed change of use from C3 to C4.

Supporting Text

2.14 The constrained housing land supply in Brighton & Hove together with the need to make the best use of sites and properties that are available mean that it is important to retain existing housing and residential accommodation (Use Class C3) in the city. There is also a need to ensure a range of dwelling types and sizes to meet the city's identified housing needs, facilitate housing choice and achieve mixed and balanced communities.

2.15 The policy makes provision for a number of exceptions where a net loss of residential accommodation might be justified. These largely address issues regarding the standard of accommodation, e.g. where it can be demonstrated that the accommodation cannot realistically be rehabilitated to meet accepted standards or in terms of housing not being able to achieve the required housing space /access standards as set out in Policy DM1 without incurring a net loss.

Other exceptions allow for a loss where proposals would result in a net gain of affordable housing or where a loss would be the only way to preserve a building of special architectural or historic interest, including listed buildings. All exceptions will need to be clearly justified and accompanied by suitable supporting information.

2.16 Where development involves the demolition and redevelopment of homes, the council will generally expect proposals to provide an equivalent or greater number of replacement homes. Where an application involves a small scale net loss of C3 residential units (for example the de-conversion of small flats back to a family sized home) then applications will be considered on their merits taking account of other considerations including, for example, amenity considerations and evidence regarding the city's identified housing needs, including the need for family homes in the city. The council's objectively assessed housing need evidence base¹⁴ demonstrates that over the Plan period there will be considerable demand for family sized homes (2 and 3+ bedroom properties) and the de-conversion of small flats back to family sized homes can make a contribution to this element of identified need. The council does not seek to resist schemes combining dwellings that involve the loss of a single home.

2.17 Where it can be demonstrated that there has been a material change of use from a residential use (as may be the case for some holiday lets), then this policy may be used for enforcement purposes. The intensification of such uses on a permanent basis can harm the residential amenity or character of the locality due to levels of activity that cause excessive noise and disturbance to residents.

2.18 A change of use may be permitted where a local need can be demonstrated to provide an essential local community facility (see Policy DM9 Community Facilities). The Infrastructure Delivery Plan (Annex 2 to City Plan Part One) provides an evidence base for the provision of suitable facilities. Proposals will be considered on their merits having regard to the impact on the amenity of residents, car parking and traffic etc.

2.19 This policy will help to ensure that measures aimed at delivering additional housing and residential accommodation, including through rehabilitation and repair, are not undermined through losses to the existing housing stock. The policy is consistent with the council's Housing Strategy objectives to improve housing standards and conditions, boost the supply of affordable housing and bring vacant housing back into use, and complements the council's Empty Property Service Plan.

¹⁴ Brighton & Hove objectively assessed housing need, June 2015, GL Hearn.

DM3 Residential conversions and the retention of smaller dwellings

Planning permission for the conversion of dwellings into smaller units of self-contained accommodation will be granted where all the following criteria are met;

- a) The original floor area¹ is greater than 120sqm or the dwelling has 4 or more bedrooms as originally built;**
- b) At least one unit of the accommodation provided is suitable for family occupation and has a minimum of two bedrooms; and**
- c) The proposal provides a high standard of accommodation that complies with requirements set out in Policy DM1 Housing Quality, Choice and Mix.**

The requirement within criterion b) for a unit of family accommodation will not apply where it is demonstrated that;

- i) A different mix of units is essential to preserve the character of a listed building; or**
- ii) A different mix of units is necessary to meet the needs of existing occupants who will remain on completion of the conversion; or**
- iii) The proposal is specifically for people with special housing needs.**

¹The original floor area excludes later additions such as extensions, garages (including converted garages) and loft conversions. The calculation of the original floor area must be based on internal dimensions only.

Supporting Text

2.20 The aim of this policy is to manage the subdivision of single residential units into smaller self-contained units in order to ensure that conversions provide a high standard of accommodation and promote and retain housing choice in the city.

2.21 The council gives a high priority to the importance of achieving a good housing mix and choice of housing (in terms of types and sizes of accommodation). Larger housing units can provide a valuable resource to meet the needs of larger families and provide housing choice. At the same time the conversion of larger properties into smaller residential units plays an important role in increasing housing supply, contributes toward the provision of a wider range of housing and helps to meet the needs of a growing number of smaller households. It is also consistent with the objective of making the best use of the land available within the city.

2.22 There also remains a high level of demand for smaller dwellings suitable for family accommodation (i.e 2 or 3 bedroom units). The policy therefore seeks to prevent the conversion/sub-division of these smaller family dwellings (i.e. those

where the original floor area is less than 120sqm) and to ensure that the sub-division of larger residential units (with a floor area greater than 120 sqm) will provide for at least one unit suitable for family occupation (a minimum of 2 bedrooms). This is consistent with Brighton & Hove City Plan Part One Policy CP19 Housing Mix.

2.23 Too much conversion activity can have an adverse impact on residential amenity, particularly in those areas where dwelling densities are already high. The conversion of properties below the threshold stated in the policy would result in a poor standard of accommodation and as such the policy is consistent with the aims of the Nationally Described Space Standards.

DM4 Housing Accommodation for Older Persons

The council will seek to ensure there is a sufficient supply and range of housing and accommodation suitable for older people.

Development proposals to meet the specific accommodation needs of older people will be supported where the development meets all of the following criteria:

- a) the proposal demonstrates that it will contribute towards meeting an identified need¹⁵ within the city and is targeted towards the needs of local residents;**
- b) is accessible to public transport, shops, services, community facilities, and social networks appropriate to the needs of the intended occupiers;**
- c) will be suitable for the intended occupiers in terms of the standard of facilities, the level of independence and the provision of support and/or care;**
- d) provides appropriate facilities for carers and visitors;**
- e) provides internal and external communal space as appropriate, including space that gives residents the ability to grow plants and food;**
- f) complies with the requirements set out in Policy DM1 Housing Quality, Choice and Mix as relevant to the accommodation provided¹⁶¹⁷; and having regard to good practice design principles¹⁸; and**
- g) contributes to creating a mixed, inclusive and sustainable community.**

In accordance with City Plan Part One Policy CP20 Affordable Housing, the council will seek an element of affordable housing provision for older persons as part of appropriate market-led developments for older people.

Proposals that will result in the loss of residential accommodation for older people will be resisted unless it can be demonstrated that at least one of the following criteria apply:

- a) the existing provision is surplus to identified needs within the city;**
- b) the existing provision is incapable of meeting contemporary standards for the support and/or care required and appropriate alternative provision is available and has been secured for the occupants; or**
- c) the loss is necessary to enable the provision of accommodation for older people which is better able to foster independent living and meet changes in the support and care needs of the occupants.**

¹⁵ As set out in the Older People's Housing Needs Assessment 2019 or subsequent updates to that study.

¹⁶ See also Policy DM1 footnote 2.

¹⁷ Accommodation where care and treatment are delivered is also required to comply with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (subject to any relevant updates) as regulated by the Care Quality Commission.

¹⁸ As highlighted in the ten components for the design of housing for older people identified in 'Housing our Ageing Population: Panel for Innovation' (HAPPI) Report (2009) and subsequent published HAPPI reports.

Where the council is satisfied that development involving the loss of accommodation for older persons is justified, the priority will be for an alternative form of supported housing or general housing (Use Class C3) including an appropriate amount of affordable housing.

Reasoned Justification

2.24 The population of Brighton & Hove is growing and the profile of the city's population is also changing. Population growth over the next 20 years is likely to be strong for those aged 60 and over. City-wide plans and strategies¹⁹ seek to ensure that the older population ages well, through promoting good physical and mental health, promoting age-friendly living environments and the provision of a range of suitable housing /accommodation options.

2.25 Whilst Brighton & Hove currently has a relatively small proportion of its population falling within the older age groups²⁰, almost one third of those 65 or over are aged over 80. Within the city, there are higher concentrations of older people in the outer wards in the north and east of the city. Demographic projections indicate there will be 68,100 people aged 60 and over living in the city by 2030, an increase of 41% from 2010²¹. Older people in the City are now also more likely to have multiple long-term conditions²² than in previous decades. It is therefore important there is an appropriate range of accommodation and care provision to meet specific needs.

2.26 The council has commissioned an Older People's Housing Needs Assessment²³ which included detailed analysis of the accommodation and support needs of older people in Brighton & Hove and involved local consultation with older people about their preferences for housing and care. The study also considered the supply of specialist housing and housing support for older people in terms of its suitability in relation to older people's needs, and assessed the projected future need/demand for specialist accommodation for older people.

2.27 Many older people want to retain as much independence as possible and want to remain in their own homes. Community based health and support services enable many people to do so. Accessibility is often a key issue for older people and Policy DM1 Housing Quality, Choice and Mix seeks to ensure that new residential development can appropriately cater for the needs of residents throughout their life.

¹⁹ For example, Brighton & Hove Housing Strategy and the Health and Well Being Strategy.

²⁰ Based on Mid-Year Estimates (ONS) 2016 there are 38,395 people age 65 or over in Brighton & Hove, representing 13.3% of the total population (England Average = 17.9%)

²¹ Source: GL Hearn Objectively Assessed Needs Report June 2015. Table 9 in the report provides a projected future need for specialist housing

²² Source: Annual Report of the Director of Public Health 2016/17

²³ Older People's Housing Needs Assessment, Housing LIN (2019)

Many needs will be met by providing support for people to live in suitable homes within the general housing stock, but there is still likely to be an ongoing need for development built specifically to meet the needs of older people.

2.28 An important conclusion of the Older People's Housing Needs Assessment is that there needs to be a wider mix of housing and accommodation options for older people. This will include supporting people to live well in their own homes, but also requires the provision of a mix of purpose-built housing types and tenures that will facilitate 'downsizing'/'rightsizing', creating a climate where moving in later life becomes a realistic and positive choice. The availability of a range of suitable accommodation options for older people can help release family accommodation, improve quality of life and reduce the need for residential care. In addition, some older people require levels of care not normally provided at home (e.g as a result of a fall or a hospital admission). More specialist forms of housing for older people, including extra care housing, have the potential to provide the level of support needed to help people to remain part of the community and maintain independence for longer through the integration of accommodation and care. The availability of such housing can help reduce hospital admissions and enables discharge of older people from acute hospital beds.

2.29 Taking account of existing provision in the city, the Older People's Housing Needs Assessment includes projections of need for specialist housing and accommodation for older people in Brighton & Hove over the period to 2030 and beyond. This analysis²⁴ indicates:

- significant future demand for housing for older people, comprising both sheltered housing to rent and private sector retirement housing for sale (649 units);
- some identified demand for housing with care (i.e extra care/assisted living) both for sale and rent (227 units); and
- an expected decline in demand for traditional residential care (-37 beds), but an increase in the use of nursing care due to increasing population of older people with complex care needs (246 beds).

2.30 These indicative projections will be used for planning purposes to give a broad indication of the scale of requirements in the city over the Plan period to 2030. However, it should be noted that these figures do not include any allowance for the replacement of existing specialist housing/accommodation that may be out-dated and no longer suitable to meet older people's needs.

2.31 The study recommends that to meet the full range of needs of older people, it will be necessary to plan for a mix of housing and care models, including:

- 'Care ready' housing for rent and for sale, i.e. without care onsite, but designed to enable people to age in place, to allow for decreased mobility and permit

²⁴ The figures shown indicate the projected additional demand in the city over the period 2019-2030.

individuals to be cared for easily in their own homes if required. This should include a mix of age-designated and inter-generational care-ready housing.

- Housing with care options that will enable the use of residential care to decrease, including extra care housing for rent and for sale with onsite domiciliary care services. Such developments should provide a 'balanced' community, i.e. having residents with a mix of care needs. Housing with care schemes would typically provide a minimum of 60/70 units, but there is potential within the city to support a larger scheme of 150+ units of mixed tenure with a wide range of facilities including onsite domiciliary care.
- Specialised housing for older people that will cater for growing number of people living with dementia and complex care needs, including hybrid housing and nursing care models that can cater for people living with dementia and other complex care needs to end of life.

2.32 The report emphasises the need to deliver high quality housing that meets the needs and aspirations of older households based on the good practice design principles set out in the 'Housing our Ageing Population: Panel for Innovation' Report (2009) and subsequent HAPPI reports.

2.33 The City has a higher percentage of pensioners in poverty compared with the national average (18.4% in the City compared to England's average of 13.8%)²³ and evidence indicates that those most deprived are more likely to suffer multiple long-term conditions²⁵. The Older People's Housing Needs Assessment highlights that the affordability of housing/accommodation is a key issue for many older people that prevents many from moving. The study also highlights the demand for affordable sheltered homes in the city. It is therefore important to ensure that there is adequate provision to address the need for affordable accommodation for older people.

2.34 Where market housing in Use Class C3 is specifically proposed for older people, a proportion of affordable housing provision will be sought in accordance with City Plan Part One Policy CP20. As far as possible an equivalent amount of affordable provision for older people will be sought to meet needs. Taking account of criteria i. to v. in Policy CP20, a flexible approach may be taken to the nature of provision and whether the affordable provision can be made on site.

2.35 Development that attracts additional care users into the city is likely to have a significant impact on council resources. The council will therefore expect development proposals for housing and accommodation for older people to be supported by evidence demonstrating that they are targeted towards and will contribute towards meeting the city's identified needs. The council will require, as a minimum, that the accommodation is marketed and made available for sale, rent or

²⁵ Source: Annual Report of the Director of Public Health 2016/17

as appropriate within the city for a period of at least 6 months before it is marketed more widely.

2.36 From a land use planning perspective, specialist housing/accommodation for older people will include development falling within both Use Classes C3 and C2. Examples of the types of housing and accommodation that will be covered by this policy include:

- Age restricted occupancy housing commonly known as retirement housing (Use Class C3) - accommodation where an age restriction is placed on occupants who live independently in self-contained homes;
- Warden assisted housing (Use Class C3) - clusters of accommodation where people live independently in self-contained homes where a warden is contactable between specified times to manage communal areas and may check on residents. Sometimes a communal meeting lounge and gardens are provided;
- Sheltered housing - clusters of accommodation where people live independently in self-contained homes where low intensity support is available, sometimes on site (usually within Use Class C3). Often with a communal meeting lounge, guest room and gardens;
- Extra-care/assisted living homes (also known as close care, very sheltered or continuing care housing) - independent living in purpose built self-contained homes, but designed to enable a range of care needs to be provided as occupiers' needs increase, with on-site care facilities available (up to 24 hours). On-site facilities may also provide support for older people in the wider community. Shared lounges, dining areas and other social and leisure facilities are sometimes provided. Extra-care/assisted living homes normally fall either within Use Class C2 or C3, this varies depending on the level of care provided and whether overnight care is available;
- Residential/nursing homes (including end of life/hospice care and dementia care) where higher intensity care is available 24 hours - commonly bedsit rooms with shared lounges and eating - this may involve residential care only, nursing homes staffed by qualified nursing staff, or dual-registered care homes where medical assistance is provided to occupiers that need it (care homes are usually within Use Class C2);

DM5 Supported Accommodation (Specialist and Vulnerable Needs)

The council will seek to ensure there is an appropriate range and supply of residential accommodation for people with special needs, including supported housing not covered by Policy DM4 Housing and Accommodation for Older Persons.

Proposals for development aimed to meet the specific accommodation requirements of people with specialist needs will be permitted where the development meets all of the following criteria:

- a) contributes towards meeting a demonstrable need within the city and is targeted to meeting the needs of local residents;**
- b) is accessible, appropriately located and suitable to meet the needs of the intended occupiers in terms of the standard of facilities, the level of independence, and the provision of support and/or care, including appropriate facilities for carers and visitors;**
- c) complies with the standards set out in Policy DM1 Housing Quality, Choice and Mix except where reduced standards are agreed with the council, or comply with Care Quality Commission regulations and standards²⁶ as relevant to the accommodation provided; and**
- d) contributes to creating a mixed, inclusive and sustainable community.**

Proposals that will result in the loss of residential accommodation for people with special needs will be resisted unless it can be demonstrated that at least one of the following criteria apply:

- a) the existing provision is surplus to needs within the city;**
- b) the existing provision is incapable of meeting contemporary standards for the support and/or care required and appropriate alternative provision is available and has been secured for the occupants; or**
- c) the loss is necessary to enable the provision of residential accommodation which is better able to meet the support and care needs of the occupants.**

Supporting Text

2.37 The approach set out in the City Plan seeks to provide for an integrated society which cares for the vulnerable and people with specialist accommodation needs. This policy facilitates the delivery of supported and specialised housing or accommodation not covered by Policy DM4 Housing and Accommodation for Older Persons²⁷. This includes hostels; refuges; supported housing; and other types of

²⁶ Or respective standards as amended

²⁷ Housing or accommodation for older people will generally be covered by Policy DM4, except where such accommodation is aimed specifically at one of the groups listed in Paragraph 2.38.

accommodation designed to meet the specific requirements of persons or groups of people with specialist needs and/or classed as vulnerable.

2.38 Such development may offer accommodation on a temporary or long term/permanent basis, to meet the needs of people who are:

- homeless
- disabled and/or vulnerable, including people with:
 - learning disabilities
 - mental health problems
 - dependency addictions
 - victims of domestic abuse or violence

2.39 The policy does not cover student housing, houses in multiple occupation (HMOs), hospitals, or hostels offering visitor accommodation such as backpacker or youth hostels (see policies CP6 Visitor Accommodation, CP21 Student Housing and Housing in Multiple Occupation, and DM7 Houses in Multiple Occupation (HMOs).

2.40 In determining the appropriate use class for self-contained facilities, the council will consider whether the development will be a registered location with the Care Quality Commission²⁸, the degree of care, and the proportion of units for which care is likely to be available. In some cases a development may be deemed to provide units within both the C2 and C3 Use Classes and some may be deemed to be 'sui generis'.

2.41 Where a proposal for specialist residential accommodation involves the conversion of an existing dwelling, regard should be given to Policy DM3 Residential Conversions and the Retention of Smaller Dwellings.

2.42 Other relevant policies will be taken into account when considering if a proposal is appropriately located, for example impacts upon transport, local amenity and the character of an area.

²⁸ Unlike residential care homes in Use Class C2, the private address of a person who uses care services is not defined as a location by the Care Quality Commission for the purposes of its registration process. However, the delivery of the domiciliary care component to individual residents is registered by the Care Quality Commission. Further information on registration is available on the Care Quality Commission website.

DM6 Build To Rent Housing

- 1. Proposals for the development of Build to Rent housing will be required to meet all of the following criteria:**
 - a) the development will improve housing choice and make a positive contribution to the achievement of mixed and sustainable communities in accordance with City Plan Part One Policy CP19 Housing Mix;**
 - b) all of the dwellings are self-contained and let separately;**
 - c) the homes are held as build to rent under a covenant for at least 15 years;**
 - d) the build to rent housing is under unified ownership and will be subject to common management;**
 - e) the development will provide professional and on-site management;**
 - f) the development will offer tenancies of at least 3 years available to all tenants with defined in-tenancy rent reviews; and**
 - g) the development provides a high standard of accommodation that complies with the requirements in Policy DM1 Housing Quality, Choice and Mix;**

- 2. Build to rent developments will be expected to contribute towards meeting the city's identified need for affordable housing. The council will negotiate to achieve the following requirements:**
 - a) provision of up to 20% affordable housing at genuinely affordable rents to be agreed with the council²⁹, taking account of the overall viability of the proposed development and subject to consideration of criteria i. to v. in Policy CP20;**
 - b) eligibility criteria for the occupants of the affordable homes to be agreed with the council and included in the S106 agreement;**
 - c) the size mix of affordable housing units to be agreed with the council in accordance with Policy CP20; and**
 - d) the affordable homes to be secured in perpetuity - the council will seek inclusion within the S106 agreement of a 'clawback' arrangement in the event of affordable units being sold or taken out of the build to rent sector.**

Supporting Text

2.43 'Build to rent' is a growing sector in the housing market, comprising large purpose-built developments for private rent. This type of housing is associated with long term institutional funding/investment and is expanding particularly in major urban areas.

²⁹ This will generally require that the affordable rents are set no higher than the Local Housing Allowance (LHA) Housing Benefit limit (including service charges). Further guidance on the rent levels sought by the council will be provided in the Affordable Housing Brief.

2.44 The Government is promoting build to rent as a means of improving the supply, choice and quality of private rented accommodation. Build to rent has been defined as a distinct housing category in the NPPF³⁰ and the Government has published Planning Practice Guidance³¹ covering the delivery and management of this type of accommodation. The NPPF defines build to rent as:

“Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development scheme comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.”

2.45 The NPPF and PPG indicate that affordable housing in build to rent schemes should normally be provided in the form of ‘affordable private rent’ with the rents set at a level that is at least 20% less than the private market rent (inclusive of service charges) for the same or equivalent property. Both market and affordable private rent units within a development should generally be managed collectively by a single landlord. The PPG indicates that 20% is generally a suitable benchmark for the level of affordable private rent homes to be provided and maintained in perpetuity in any built to rent scheme, subject to evidence on local housing need and development viability.

2.46 The council accepts that build to rent can help to boost the supply of housing to rent in the city by providing more choice of good quality rented accommodation and secure longer term tenancies. The policy aims to facilitate the delivery of high quality build to rent schemes that will contribute towards meeting identified local housing needs in the city. In accordance with Policy CP19 in City Plan Part One, build to rent proposals should form part of an appropriate mix of housing type, size and tenure across the city.

2.47 The policy requires that the homes are held as build to rent under a covenant for the long term (i.e. at least 15 years). To ensure that there is no financial incentive to break the covenant, the council will seek the inclusion within S106 agreements of a ‘clawback’ mechanism in the event that private market rent homes are sold before the end of the agreed covenant period.

2.48 The policy seeks to ensure that developments offer longer term tenancies of at least 3 years to all tenants whether paying market or affordable rent (however shorter tenancies should also be made available where tenants want these). The council will use S106 agreements to set out the key details of the lettings agreement,

³⁰ MHCLG National Planning Policy Framework, February 2019

³¹ MHCLG Planning Practice Guidance (published 13 September 2018)

the rent levels and apportionment of the homes across the development, a management and service agreement, and a marketing agreement setting out how their availability is to be publicised.

2.49 The policy also seeks to ensure that build to rent homes are designed, constructed and managed to a high quality standard, meeting the requirements in Policy DM1 Housing Quality, Choice and Mix, with affordable homes constructed and managed to the same standards as private rented homes. Build to rent developments will also be expected to meet open space and sports provision needs in accordance with City Plan Part One Policies CP16 Open Space and CP17 Sports Provision as well as accord with sustainable buildings standards (in accordance with City Plan Part One Policy CP8, and City Plan Part Two Policy DM44) and achieve a net gain in biodiversity (in accordance with City Plan Part One Policy CP10 and City Plan Part Two Policy DM37).

2.50 Brighton and Hove has a substantial level of local housing need and therefore it is important that build to rent schemes include or contribute towards the provision of housing that is genuinely affordable for local households on the council's housing register. To support the policy, the council has undertaken assessment of the viability of build to rent development in the city and its potential to deliver affordable housing³². The study demonstrates that, subject to the variables tested, build to rent schemes in the city are capable of supporting up to 20% affordable units provided at discounted rents at least 20% below equivalent local market rents. However, greater levels of discount would be required to deliver units that are genuinely affordable to most of those eligible to join the council's housing register, Therefore in negotiating the affordable element of build to rent schemes, the council will consider the trade-off between the number of affordable units to be provided and the level of affordable discount that may be achieved.

2.51 Taking account of the viability evidence and the guidance in the PPG, the council will seek to secure the provision of up to 20% of the housing at genuinely affordable rents taking account of the overall viability of affordable housing in build to rent schemes, with provision made to maintain the affordability in perpetuity. This will generally require that the affordable rents are set no higher than the Local Housing Allowance (LHA) Housing Benefit limit (including service charges) The number of affordable units sought and level of the discount against market rents will be negotiated for each individual site/planning application taking consideration of criteria i. to v. in Policy CP20 in City Plan Part One, including development viability and the location and character of the proposed development. Where it is not feasible to deliver genuinely affordable rented units integrated and managed within a build to rent scheme, the council may seek to negotiate an equivalent financial contribution in lieu of onsite affordable housing.

³² Brighton & Hove Build to Rent Study 2019, Dixon Searle Partnership

2.52 The council will seek to agree eligibility criteria for the occupants of the affordable homes and will include this in the S106 agreement for the relevant development scheme. The council will also require build to rent scheme operators to produce an annual statement, confirming the approach to letting the affordable units, their ongoing status, and clearly identifying how the scheme is meeting the overall affordable housing level required in the planning permission.

2.53 The PPG indicates that both the proportion of affordable private rent units, and the discount offered on them can be varied across a development, over time. This can potentially be addressed through provision for viability review mechanisms to be included in the S106 agreement. The council will expect applications for build to rent to provide justification for their proposed approach to affordable housing provision and to provide a transparent viability assessment which will be subject to independent assessment in line with the council's affordable housing validation requirements. The cost of such assessment will be expected to be met by the applicant.

2.54 The council will seek to ensure that affordable housing included within a build to rent scheme is maintained as a community benefit in perpetuity. To cover any circumstances where all or part of a build to rent scheme is sold or converted to another tenure, the council will seek the inclusion within the S106 agreement of specified mechanisms for recouping ("clawing back") the value of the affordable housing provision. This could be achieved through the alternative provision of other affordable housing or a financial contribution equivalent to the value of the affordable housing lost as a result of the sale/conversion of the build to rent scheme.

2.55 Further guidance on the provision of affordable housing as part of build to rent developments will be set out in the council's Affordable Housing Brief.

DM7 Houses in Multiple Occupation (HMOs)

1. Planning permission will be granted for the conversion of sui generis Houses in Multiple Occupation to self-contained family homes (use class C3).

2. 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.**

Supporting Text

2.56 A House in Multiple Occupation, commonly known as a HMO, is defined as a property rented to at least three people who are not from one 'household' (e.g. a family) but share facilities such as a bathroom and kitchen. Examples include bedsits, shared houses, lodgings, accommodation for workers/ employees and refuges. Planning use classes distinguish between 'small' HMOs of up to six people (C4 use class), and 'large' HMOs of seven or more occupants which are *sui generis*.

2.57 High concentrations of HMOs can cause a number of negative impacts on local communities, for example more frequent noise nuisance, depopulation of neighbourhoods during academic vacations, increased pressure on parking due to higher population densities, and higher levels of population transience leading to a possible longer-term breakdown of community cohesion.

2.58 Larger HMOs are likely to have a proportionately greater impacts on surrounding occupants and neighbourhoods as each additional resident will increase the level of activity, for example through more frequent comings and goings, different patterns of behaviour and consequential noise and disturbance. A property occupied by a group of unconnected adults is likely to have a greater impact than a typical family home with a similar number of occupants as lifestyles and movement patterns will be less connected. It is also considered that individual unconnected occupants are more likely to generate additional refuse and parking pressures than a typical family home.

2.59 Equally, the cumulative effect of incremental intensification in an area caused by numerous changes of use from small HMOs to large HMOs can be significant, affecting both immediate neighbours and the wider area. Applications for such changes will therefore be assessed using the same criteria as conversions from other uses.

2.60 There are approximately 5,000 licensed HMOs in the city. This high number is partly due to housing costs and availability in the city, and partly due to the supply of Purpose Built Student Accommodation (PBSA) not matching the past expansion of student numbers. The city's housing market has responded to the imbalance in supply and demand through increasing numbers of family dwellings being converted to HMOs.

2.61 Many HMOs do not house students - the cost of housing in the city and overall shortage of new planned housing compared to the assessed need mean that many young professionals and people on low incomes also live in HMOs. A balance must be struck between maintaining this sector of the housing market, and permitting reversion to C3 family homes given the potential negative impacts and demand for additional family housing in the city.

2.62 The above policy responds to this by allowing for further conversion to HMOs where the defined criteria are met, but also supporting reversions to C3 use class family homes³³. Policy support is provided for changes in use in both directions, whilst guarding against exacerbating the negative impacts that can occur where there are over-concentrations of HMOs.

2.63 City Plan Part One Policy CP21 has been effective in preventing new HMO development from exacerbating existing concentrations within a short 50m radius of application sites, whilst allowing further conversions in areas of lower proliferation. However, additional HMOs can also impact on residential amenity where they lead to concentrations in the immediate vicinity of an application site, as well as creating other impacts where they proliferate at a broader neighbourhood level wider than the immediate 50m radius.

2.64 This policy therefore extends Policy CP21 by introducing additional criteria to address these issues which will be used in addition to the criteria in CP21 to determine applications. The planning policy framework for determining applications for HMOs is therefore:

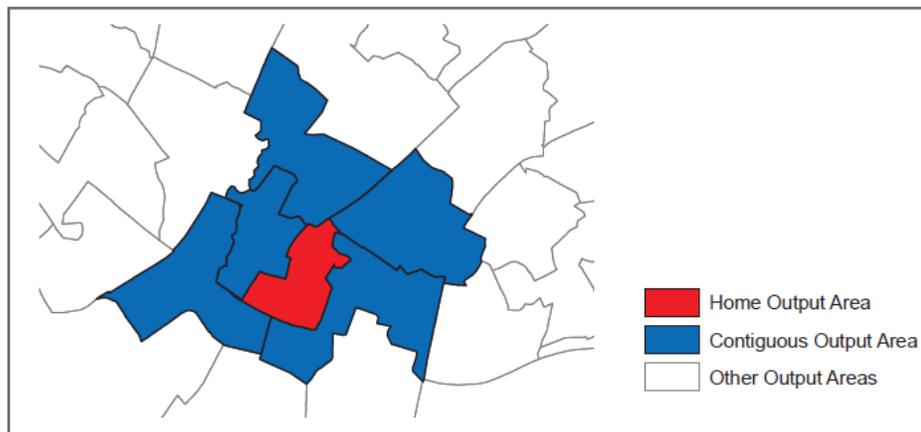
³³ A change of use from a small HMO (use class C4) to C3 falls under permitted development and does not require planning permission.

- **Local level.** City Plan Part One Policy CP21 states that HMO development will not be permitted where more than 10% of dwellings within a radius of 50 metres of the application site are already in HMO use.
- **Immediate vicinity.** Additional criteria in Policy DM7 to ensure that a non-HMO is not 'sandwiched' between two HMOs in a continuous frontage as well as preventing continuous frontages of 3 or more HMOs. In situations where properties are not traditional houses situated along a street frontage, the policy can be applied flexibly depending on the individual circumstances of the proposal.
- **Wider neighbourhood level.** Policy DM7 introduces an additional criterion that will look at HMO concentrations across a cluster of contiguous (i.e. immediately adjoining) census output areas³⁴. HMOs will be assessed at this wider neighbourhood level to ensure that existing HMOs do not exceed 20% of all properties across the neighbourhood level.

2.65 The 20% level is considered appropriate for assessing wider neighbourhood areas with indirect impacts that affect the character of communities (for example a decreasing demand for local schools and changes in types of retail provision) rather than the specific impacts on individual properties that the existing other criteria in this policy and CP21 are intended to address.

2.66 The number of contiguous output areas may vary depending upon local circumstances but typically clusters will be comprised of between 5 and 7 output areas. Output areas generally comprise around 125 households and it is expected that 5-7 output areas would capture approximately 625 to 875 properties.

Figure 1 Example of Contiguous Output Areas



³⁴ Output areas (OA) were created for Census data, specifically for the output of census estimates. They are the smallest area for which census data is provided and were designed to have similar population sizes.

2.67 It is important that adequate living conditions are provided for occupants of HMOs. The Housing Act 2004 requires landlords of larger HMOs to apply for licences, and the city council has also introduced a city-wide additional HMO licensing for small HMOs. This is a separate regulatory regime to planning and seeks to secure minimum standards of accommodation fit for human habitation such as fire safety standards and access to basic facilities such as a kitchen, bathroom and toilet. The planning system has a wider responsibility for ensuring that the quality of accommodation will provide more than the bare minimum for its occupants by ensuring an adequate standard of living for long term occupants.

2.68 Where additional bedrooms are created in both new build HMOs and conversions of existing buildings, these will be expected to meet the internal space standards set out in Policy DM1 Housing Quality, Choice and Mix. Appropriately sized, proportioned and equipped communal areas and adequate bathroom and cooking facilities should be provided, relative to the expected number of occupants.

2.69 Communal living space should be provided within the main structure of the building and not within conservatories due to the inferior noise insulation and consequent effect on amenity of neighbours. Insufficient communal areas increase the time occupants must spend in their individual bedrooms and can therefore hinder social cohesion within the property. The minimum size of usable communal living space³⁵ should be 16 sqm, equating to 4 sqm per person, assuming a small four person size HMO, however other factors such as the usability and configuration of the space will also be taken into account. For HMOs accommodating more residents, proportionately more communal lounge space should be provided. 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. Large HMOs will be expected to provide at least two bathrooms with showering facilities. Bedrooms should be located no more than one level from the nearest bathroom.

2.70 HMO proposals are also required to provide useable private outdoor amenity space appropriate to the scale and character of the development as required by Policy DM1 Housing Quality, Choice and Mix.

³⁵ Living space includes lounge, kitchen and dining areas.

DM8 Purpose Built Student Accommodation

Planning permission will be granted for new purpose built student accommodation (PBSA) developments, subject to the criteria set out in City Plan Part One Policy CP21, which provide all of the following:

- a) predominantly cluster units;**
- b) bedrooms of a sufficient size for living and studying;**
- c) communal living space, cooking and bathroom facilities commensurate in size to the number of occupants of cluster flats;**
- d) communal hub space commensurate in size to the number of studio units;**
- e) acceptable daylighting to all habitable rooms;**
- f) measures to promote the use of and provide access to sustainable transport including management arrangements to ensure occupants do not keep cars in Brighton & Hove; and**
- g) effective and appropriate 24 hour security presence.**

Supporting Text

2.71 Brighton's two universities, the University of Brighton and University of Sussex, are major assets that are vital to the city's economy and make an important contribution to its economic and cultural life and its positive national and international reputation.

2.72 However, the number of permitted PBSA bedspaces, currently assessed to be 12,699³⁶, remains below the number of students in the city requiring accommodation, particularly for students at the University of Brighton. It is therefore expected that applications for new PBSA development will continue to come forward over the plan period.

2.73 The council welcomes the development of new PBSA on appropriate sites. In addition to setting out criteria to guide the suitable location of PBSA, City Plan Part One Policy CP21 allocated five sites for new development, of which Pelham Street remains undeveloped and without an extant permission. Additionally, the Falmer Released Land is identified in City Plan Part One Policy DA3 Lewes Road Area as being suitable for development of a range of uses, including PBSA. Additional site allocations are set out in Policy H3 Purpose Built Student Accommodation.

³⁶ 3,146 bedspaces managed by University of Brighton, 8,167 managed by University of Sussex, and 1,386 privately managed.

2.74 The greatest demand for student accommodation stems from the two universities, and the occupation of new developments by university students is preferred due to the large numbers currently residing in HMOs. Although there are approximately 50 language schools in the city, these are understood to currently house the vast majority of students with host families.

2.75 The policy seeks to ensure that PBSA developments are designed to provide an adequate standard of accommodation. Whilst it is recognised that PBSA is rarely long term accommodation for the occupants, it is important that adequate standards of design are maintained. Poor quality, noisy, cramped and poorly laid out accommodation with inadequate daylighting can be contributory factor to a sense of isolation, loneliness and related health impacts in some occupants, who may struggle to adjust to unfamiliar surroundings in a new city or country. Accommodation should therefore facilitate convenient social interaction by providing communal living space and cooking facilities appropriate in size to the number of occupants in a development or within a cluster flat, and appropriately sized communal hub space to reflect the number of studio units. Rooms should have sufficient space for a bed, storage space, a desk space with good natural light, and adequate circulation space around these items to ensure they are all usable. In addressing criterion e) daylight and sunlight levels should meet the recommended standards for living rooms set out in current BRE guidance and any subsequent revisions.

2.76 It is important to deliver a mix of accommodation types. Studio flats can meet a specific demand in the market as they provide a greater degree of independence (e.g. for mature students), however they are generally more expensive for students to rent and are unaffordable for many. Occupants of more expensive studio flats are less likely to otherwise reside in HMOs due to the greater disparity of typical rental costs, and their provision therefore is less likely to contribute positively towards the overarching policy aim of mitigating the impacts of concentrations of HMOs in some neighbourhoods by providing alternative accommodation options. Cluster flats are a more affordable option and also encourage greater social interaction. In order to provide a greater strategic benefit to the city developments should provide a predominance of cluster flats in order to be available to a broad spectrum of students, rather than only the wealthiest.

2.77 The majority of new PBSA developments in recent years have been located along the Lewes Road academic corridor due to the accessibility to the universities. Some of these locations are in areas not covered by Controlled Parking Zones so the council cannot restrict the number of cars brought to the city by occupants through permit-free developments. As the locational criteria for PBSA developments in Policy CP21 include the need for them to be located on sustainable transport corridors easily accessible to the universities, it is considered unlikely that students would need private transport. In order to reduce the impact on neighbouring streets,

management arrangements will be expected to ensure that occupants do not keep cars in Brighton & Hove. Exceptions may apply in the case of disabled students. Other measures to support sustainable transport use such as discounted bus tickets and cycle loans should also be provided.

2.78 Developments should also maintain effective 24 hour staffing/security to ensure the safety and security of residents and to enable a rapid response to any incidents of anti-social behaviour. This should not take the form of student volunteers.

DM9 Community Facilities

1. Planning permission will be granted for new community facilities where all of the following criteria are met:

- a) the proposed use is compatible with adjoining and nearby uses;**
- b) the site is close to the community it serves and is readily accessible by walking, cycling and public transport; and**
- c) where feasible and appropriate, community facilities have been co-located to maximise their accessibility to residents and reduce the need for travel (for example at Community Hubs).**

2. Development that would lead to the loss of community facilities will only be permitted where it has been demonstrated that at least one of the following circumstances applies:

- a) replacement facilities of an appropriate quality and size will be provided as part of new development proposals or in an alternative suitable location that meets the criteria in part 1 of this policy; or**
- b) the facility is no longer needed and suitable alternative provision with sufficient capacity is available in a location easily accessible to users of the facility; or**
- c) the building or land is no longer suitable to accommodate the current use or an alternative suitable community use and cannot be reasonably adapted to do so; or**
- d) it has been demonstrated that there is no current or future need or demand for the space, either in its current use or any alternative community use and evidence of active, flexible and appropriate marketing of the site for community use has been provided.**

Partial loss of floorspace through change of use will be supported where it can be clearly demonstrated that the operational need of the community use requires less floorspace or where continuation of the existing use would otherwise be unviable and can be sustained by cross-subsidy.

Supporting Text

2.79 The term 'community facilities' encompasses a wide range of facilities and services which are defined in national policy as being social, recreational and cultural in nature³⁷. They can be broadly separated into the following types of use:

- Non-residential Institutions (Use Class D1) – these are defined by the Use Classes Order and include education uses (non-residential), health clinics/GP surgeries, day nurseries/crèches, law courts, training centres, museums, public libraries, public halls and places of worship.

³⁷ National Planning Policy Framework – paragraph 83

- Essential community infrastructure to meet the needs of the city. This includes:
 - Facilities for the emergency services including the NHS and Fire, Police and Ambulance Services;
 - Public toilets; and
 - Prison and custody facilities.
- Cultural and social facilities which perform an important role in the health and wellbeing and ‘quality of life’ of the city’s residents. These include theatres, cinemas, public houses, social clubs, night-time venues, bingo halls, and sport facilities. These types of venue are already protected by City Plan Part One Policy CP5.

2.80 New development adds to the demand for existing community facilities and can lead to the need for entirely new facilities. City Plan Part One Policy CP7 sets out how the council will work with partners to ensure that the necessary social, environmental and physical infrastructure is appropriately provided in time to serve new development. The Infrastructure Delivery Plan (Annex 2 to the City Plan Part One) is updated periodically and identifies existing infrastructure, current shortfalls, and existing and future infrastructure needs to support the planned new development in the city over the Plan period up to 2030. The council will encourage developers to engage with providers of essential city infrastructure at an early stage where a specific need has been identified as part of the development.

2.81 This policy links to those requirements by setting out the development management considerations that will be taken into account in determining applications for new community facilities or proposals that would involve their loss. The council will seek to retain existing facilities by permitting proposals for alternative uses or redevelopment which would result in their loss to the community only where it can be demonstrated that the facility is not needed or the premises are not suitable for continued community use.

2.82 In order to demonstrate that a facility is not needed or is not suitable for alternative community use, evidence of active, flexible and appropriate marketing of the site for community use for a period of at least 12 months should be submitted.

2.83 The policy supports the provision of new community facilities where they are compatible with existing uses and are easily accessible to the community that will use them. Community facilities serve all parts of the community, including more vulnerable people, and it is therefore essential that they are readily accessible by sustainable means of travel, particularly given the relatively low level of car ownership in Brighton & Hove. Consideration will therefore need to be given to the availability of existing public transport services/routes, especially buses, to ensure that levels of accessibility are adequate, in addition to any associated infrastructure requirements.

2.84 The policy includes flexibility by allowing partial loss of floorspace where this would not affect the ability of the existing use to effectively operate, to sustain an otherwise unviable community use through the introduction of a higher value use on part of the site.

DM10 Public Houses

Public houses will be protected. Planning permission will not be granted for redevelopment and/or change of use except where:

- a) it has been demonstrated that use as a public house is not economically viable now and could not be made viable in the future³⁸; and**
- b) It has been demonstrated that the local community no longer needs the public house and alternative provision meeting a similar need is available in the locality.**

Where an alternative use can be justified, priority will be given to re-use of the premises or site for alternative community facilities.

Supporting Text

2.85 Public houses are important contributors to the character and vitality of communities, providing opportunities for social interaction, strengthening social cohesion and acting as a focus for the local community.

2.86 A significant number of pubs have been lost to other uses in Brighton & Hove in recent years, and others have been subject to high profile local campaigns when threatened with alternative development proposals. It can be difficult to provide for new public houses due to a lack of suitable sites and concerns regarding amenity where the use is not established, particularly in residential areas of the city.

2.87 Applicants will be expected to submit a full viability assessment which should include trading accounts for the past three years of operation and have regard to the Campaign for Real Ale's public house viability test and any subsequent guidance³⁹. Details should also be provided of any changes that may have impacted on the business in the period that corresponds with the trading information plus one year beforehand (i.e. 4 years in total), for example, changes/reductions in opening hours; removal of facilities or cancellation of events that could increase patronage.

³⁸ Applicants will be required to provide detailed evidence that the existing use as a public house is unviable and that initiatives to improve viability have been fully explored.

³⁹ Campaign for Real Ale Public House Viability Test, November 2015 - <https://s3-eu-west-1.amazonaws.com/www1-camra/wp-content/uploads/2019/03/08155247/Public-House-Viability-Test-v.2015.pdf>

2.88 Recent lack of success using a purely economic analysis does not necessarily indicate lack of need or demand. Clear evidence will be required to demonstrate that the pub is no longer viable and could not be made viable, and that options to increase viability have been fully explored. These could include expanding the choice of food and/or drink to meet current market expectations and trends or gaps in the local market; making genuine attempts to attract new customers through initiatives such as pub quizzes and live music; consideration of using the space for alternative community uses at less popular times; providing guest accommodation where space exists; and sharing the premises with other businesses. The Bevy pub in Bevendean is an example of how a pub can act as a community hub with numerous initiatives involving different age groups undertaken to boost patronage⁴⁰.

2.89 It should be demonstrated that the pub is actively seeking to attract customers, for example by being kept in a good state of external and internal repair, maintaining an active social media presence, and being reliably open for business.

2.90 Evidence will also be required that the site/premises has been appropriately and prominently marketed for a period of at least 24 months at an independently verified fair price for ongoing use as a public house. Both freehold and leasehold options should be made available without a 'tie' requiring the purchase of drinks through the vendor and without restrictive covenants that would otherwise prevent re-use as a public house such that other pub operators, breweries, local businesses or community groups wishing to take over the premises and trade as a pub are not excluded.

2.91 Public houses meet a range of needs, and it cannot be assumed that all are directly comparable. For example, a traditional wet-led community pub meets a different need and serves a different market to a gastropub. In assessing the range of alternative provision in the locality of a site, consideration should therefore be given to the diverse nature of pubs and the particular elements of the community they serve. Consideration should also be given to possible increases in demand if significant new housing is proposed in the locality of if other pubs in the locality have recently closed.

2.92 If the application site has been registered as an Asset of Community Value (ACV), this will be treated as a material consideration, alongside all viability and marketing evidence, in determining if the site has a future as a viable public house business. Whilst being registered as such does not in itself indicate that a public house use can continue to be viable, it does provide a strong indication that there is local support for its retention.

⁴⁰ www.thebevy.co.uk/

2.93 The council will seek to retain public house uses in their original buildings, as many of the intangible elements of pubs which are valued by their customers, for example a sense of authenticity, character, history and nostalgia, are extremely difficult to replicate in new premises. However, where it has been demonstrated that retention of the original business is not possible, it may be possible to retain a public house function as part of a full redevelopment of a site. If this is proposed, the townscape, streetscape and heritage significance of the public house will be assessed in determining if this approach is acceptable.

2.94 Where an alternative use can be justified, priority will be given to alternative community facilities, as these may be able to provide an alternative focus and meeting point for the community.

2.95 The continued operation of pubs and other venues, including those featuring live music, is protected from being compromised by new, sensitive development on nearby sites through the 'agent of change principle' as set out in Policy DM40.