



**Brighton & Hove  
City Council**

**Proposed Submission City Plan Part 2  
Brighton & Hove Development Plan April  
2020**

**Hearing Session: 3 November 2021 (PM)**

**Statement in Response to Matter 11:  
Policies DM1 to DM8 – Housing Policies**

**BY  
BRIGHTON & HOVE CITY COUNCIL**

## List of Abbreviations

AMR - Authority Monitoring Report  
CPP1 - City Plan Part 1  
CPP2 – City Plan Part 2  
NDSS – Nationally Described Space Standards  
NPPF - National Planning Policy Framework  
PPG – Planning Practice Guidance  
SA - Sustainability Appraisal

## **DM1 Housing quality, choice and mix**

**Q1. Is the requirement for all new residential development to meet the nationally described space standards and be accessible and adaptable in accordance with Building Regulation M4(2) justified? What is the evidence for the requirement for M4(3) (Wheelchair User Dwellings) given the necessity for local plan policies for wheelchair accessible homes to be applied only to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling? In light of paragraphs 003 to 008 of the PPG *Housing-Optional technical standards*, which sets out the requirement for evidence to determine the need for additional standards and the need to clearly state what proportion of new dwellings should comply with the requirements, would these requirements be soundly based?**

1. Yes, a detailed explanation and justification for the standards in DM1 is set out in the Council's Space and Accessibility Standards Topic Paper (TP01). This sets out evidence in terms of need, viability and timing as required by the PPG (TP01 Section 2 sets out the evidence for space standards and Section 3 for accessibility/ adaptability). The policy requirements reflect the national direction of travel as set out in the Government's recent 'Raising accessibility standards for new homes' consultation and National Disability Strategy.
2. TP01 (Paragraphs 3.13 – 3.27) presents a range of evidence relating to levels of current and projected households with disabilities, including data from the Objectively Assessed Housing Needs Update (OD15), Older Person Housing Needs Assessment (OPHNA) (ED01), the Council's Housing Adaptations Service and the Housing Register. These sources provide clear evidence of a significant and growing demand linked to the city's ageing population and increasing numbers of people with long term health issues. Whilst the Council has more power to influence the provision of wheelchair accessible homes within the affordable housing sector (where households can be allocated or nominated from the Housing Register), there is also evidence of demand within the market housing sector (e.g the Housing Adaptations figures). The Council therefore considers that the requirements for M4(3) housing set in DM1c) are reasonable and soundly based.

**Q2. Given the CIL Viability Study 2017 (and subsequent addendums) would the requirements in C-E of this policy have any significant impact on the viability of delivering housing within the City?**

3. No, it is not considered that the space and accessibility standards required would have any significant impact on the viability of housing delivery. Both were incorporated within the CIL viability studies (OD80) and the Build to Rent Viability Study 2019 (ED02) (see also the Council response to Matter 17 Infrastructure and Viability).

**Q3. Do the policy requirements, including those for usable outdoor amenity space strike the right balance between providing high quality living conditions for future residents and delivering housing to meet identified needs?**

4. Yes, it is considered that the policy requirements strike the right balance as explained and justified in TP01. A small number of Regulation 19 representations stated that the criteria are insufficiently flexible; however the policy wording explicitly allows for exceptions to c) to e) where the applicant has provided a robust justification and the Council is satisfied that particular circumstances apply. Similarly the wording of criterion f), requiring the provision of useable private outdoor amenity space, includes the wording “appropriate to the scale and character of the development” which allows for some flexibility in exceptional cases.

**DM2 Retaining housing and residential accommodation (C3)**

**Q1. What is the justification for this policy, in protecting only existing dwellings (C3)? Should its requirements be extended to include other forms of residential accommodation (e.g. C4 HMOs)?**

5. The policy seeks to protect the city’s existing C3 housing stock in response to the City’s substantial identified needs and very constrained housing supply. Policy DM7 supports C4 HMO development, subject to criteria aimed at avoiding negative impacts due to over-concentration of HMOs in some parts of the city. Change of use from C4 to C3 is permitted development which cannot be controlled by planning policy and there is no evidence of a need to protect existing HMOs from change to other uses.

**DM3 Residential conversions and the retention of smaller dwellings**

**Q1. What is the justification for the size threshold in part A of this policy? Would this policy, which would protect smaller family housing, strike the right balance in meeting the need for new housing and protecting existing?**

6. Yes, as explained in TP01 (Paragraphs 2.27-2.28), the purpose of the size threshold is to ensure that conversions provide/retain at least one unit suitable for family occupation. Based on the Nationally Described Space Standards (NDSS), the proposed threshold of 120sqm will allow for at least one residential unit of 70+ sq.m (i.e. a 2 bedroom 4 person unit) with a smaller flat of 50+ sq.m (1 bedroom 2 person unit). A small number of Regulation 19 representations argue the policy requirements are too restrictive, however the Council considers the policy will support the need/demand for smaller family housing evidenced in TP01 (Paragraphs 2.5-2.12).and help ensure a good standard of accommodation and amenity for residents.

**Q2. Is this policy clearly written and unambiguous, so it is evident how a decision maker should react to development proposals? In particular, is the phrase 'suitable for family occupation' clear and unambiguous?**

7. The phrase 'suitable for family occupation' is explained in TP01 (Paragraph 2.27) as meaning at least a 2-3-bedroom unit which in order to comply with the 120sqm threshold would need to be a 2-bedroom, 4-person unit (70sqm) or larger. It is proposed to clarify this through the following proposed Main Modification:

MM ##	Policy DM3, page 20	<p><i>In part B, insert footnote after 'minimum of two bedrooms' to read:</i></p> <p><u>*i.e., a 2-bedroom, 4-person unit (70sqm) or larger.</u></p>	To clarify what is meant by 'suitable for family accommodation' for policy purposes.
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#### **DM4 Housing and accommodation for older persons**

**Q1. What is the evidence of the need for housing for older persons and is it robust? Is the approach to housing and accommodation for older people justified, effective and consistent with national policy and City Plan Part 1 policies CP19 and CP20? Should it seek to meet local needs on a neighbourhood basis? Should the submitted Plan do more to support co-living/ inter-generational communities to impact on loneliness at all stages of life?**

8. Evidence of need is set out in the ED01 Older People Housing Needs Assessment (OPHNA). DM4.1a) sets a requirement for proposals to demonstrate need with Footnote 15 cross-referencing directly to the OPHNA or subsequent assessments. DM4 Paragraph 2.29 sets out the additional need for different types of older persons housing/ accommodation across the city over the period to 2030, whilst Annexe 5 in the OPHNA provides a more detailed breakdown for three sub-areas (Brighton, Hove and Portslade) over the periods to 2025, 2030 and 2035. These figures are indicative and assessed needs are likely to change over time. Given the relatively small area geographic size and inter-connectedness of city, it is not considered necessary or appropriate to define needs at a neighbourhood level.
9. The Council acknowledges the benefits of inter-generational housing which are highlighted in the OPHNA (pages 5 and 44). However, the OPHNA recommendations focus on providing mainstream housing that is 'care ready' rather than specialist older persons housing and such

developments would already be supported by other City Plan policies (e.g SA6 and CP19). To provide stronger support for inter-generational housing, the following Main Modification is proposed:

MM ##	Supporting text to Policy DM4, paragraph 2.28, page 25	<p><b>Policy DM4 Housing and Accommodation for Older Persons</b> <i>Amend paragraph 2.28, third sentence to read:</i></p> <p>The availability of a range of suitable accommodation options for older people, <u>including as part of inter-generational communities</u>, can help release family accommodation, improve quality of life and reduce the need for residential care.</p>	To provide support for the principle of inter-generational housing
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**Q2. Is there any evidence that the requirements of the policy would affect the viability or deliverability of this type of housing?**

10. Specialised housing and accommodation for older persons covered under the policy varies considerably in terms of typology and level of support/care (see DM4 paragraph 2.36) and this leads to significant variations in development costs. Viability assessment of different types of older persons accommodation has been undertaken as part of CIL work (in particular see OD80a Section 3.7, OD80i Paragraphs 2.1.23 - 2.1.35, and OD80j Section 2.2). These viability assessments concluded that for market-led C3 housing (e.g age restricted and sheltered housing), CIL charging is viable at standard C3 rates. For C2 extra care/assisted living, a lower CIL rate of £100/sqm is viable in CIL charging Zones 1 and 2 with no charge in Zone 3. However, for C2 nursing/care homes no CIL charge is sought, reflecting lower values and higher costs for care and support.

**Q3. Does this policy provide a clear indication of how a decision maker should react to a development proposal for retirement housing and care homes?**

11. The Council agrees that the policy could be written more clearly to comply better with the requirements in the NPPF (paragraph 16). The following Main Modifications are proposed:

MM ##	Policy DM4, page 23	<p><b>Policy DM4 Housing and Accommodation for Older Persons</b> <i>Amend second paragraph to read:</i></p> <p><del>Development proposals to meet the specific accommodation needs of older people will be supported</del> <u>Planning permission will be granted for older persons housing and accommodation</u> where the development meets all of the following criteria:</p>	To provide clearer policy wording.
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MM ##	Policy DM4, page 23	<p><b>Policy DM4 Housing and Accommodation for Older Persons</b> <i>Amend fourth paragraph to read:</i></p> <p>Proposals that will result in the loss of residential accommodation for older people will <del>be resisted unless it can be</del> <u>only be permitted</u> where it is demonstrated that at least one of the following criteria apply:</p>	To provide clearer policy wording.
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### DM5 Supported accommodation (specialist and vulnerable)

**Q1. Is there robust evidence of the need for supported accommodation? Would this policy effectively protect/support provision to meet identified needs?**

12. Yes, the need for different types of supported accommodation is assessed and monitored on an ongoing basis through the Joint Strategic Needs Assessments (JSNA) which are prepared by the Council in liaison with the Clinical Commissioning Group (CCG) and other health and care providers in the city. Policy DM5 aims to provide a policy framework to support the delivery of good quality and suitably designed supported accommodation that meets the needs of the city's residents, and also to protect against the loss of good quality supported accommodation where it still meets local needs.

**Q2. Does this policy provide a clear indication of how a decision maker should react to a development proposal for this type of development?**

13. The Council agrees that the policy could be written more clearly to comply better with the requirements in the NPPF (paragraph 16). The following Main Modifications are proposed:

MM ##	Policy DM5, page 28	<p><b>Policy DM5 Supported Accommodation (Specialist and Vulnerable Needs)</b> <i>Amend second paragraph to read:</i></p> <p><del>Proposals for development aimed to meet the specific accommodation requirements of people with specialist needs will be permitted</del> <u>Planning permission will be granted for supported accommodation for people with specialist and vulnerable needs</u> where the development meets all of the following criteria:</p>	To provide clearer policy wording.
MM ##	Policy DM5, page 28	<p><b>Policy DM5 Supported Accommodation (Specialist and Vulnerable Needs)</b> <i>Amend third paragraph to read:</i></p>	To provide clearer policy wording.

		Proposals that will result in the loss of residential accommodation for people with special needs will <del>be resisted unless it can be</del> <u>only be permitted where it is demonstrated that at least one of the following criteria apply:</u>	
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## DM6 Build to rent

### **Q1. Would the requirements of this policy be justified, effective and consistent with national policy, with particular regard to criteria 1B separate letting, 1D regarding unified ownership, 1E regarding on site management, 1F regarding the length of tenancies and 1G regarding the quality of the accommodation?**

14. Criterion b) is intended to clearly distinguish Build to Rent developments from rented accommodation with shared facilities such as co-living developments and large HMOs. The wording duplicates that included in Policy H11 of the adopted London Plan.
15. Policy requirement d) reflects the NPPF Glossary definition which states that Build to Rent developments will typically be professionally managed stock in single ownership and management control which is reiterated in the PPG (Paragraph 60-007). The requirement for unified ownership and management reflects similar wording included in Policy H11 of the London Plan.
16. As stated in the London Plan, 'on-site management' does not necessarily require full-time dedicated on-site staff, but all schemes should have systems for prompt resolution of issues and some daily on-site presence.
17. Policy requirement f) reflects the Build to Rent definition in the NPPF Glossary which states that schemes will usually offer longer tenancy agreements of three years or more and also the PPG (Paragraph 60-010) which indicates that authorities should apply planning conditions requiring scheme operators to offer tenancies of 3 or more years.
18. Criterion 1(g) clarifies the expectation that Build to Rent developments will be subject to the general Policy DM1 requirements (e.g in respect of minimum space and accessibility standards). Equivalent criteria have been included in other CPP2 housing policies (e.g DM4 and DM5). The supporting text at Paragraph 2.48 also clarifies that shorter tenancies should be made available for tenants who want these.

### **Q2. Would the affordable housing requirements accord with national policy?**

19. Yes, it is considered that the affordable housing requirements in part 2 of DM6 comply with national policy as set out in the NPPF and PPG. The

percentage of affordable housing sought in criterion 2.a) reflects the PPG (Paragraph 60-002) and the conclusions of the Council's Build to Rent Study (ED02), whilst also indicating that the affordable housing negotiated will be subject to overall viability and consideration of criteria i. to v. in CPP1 Policy CP20. Criterion 2.b) relating to eligibility requirements conforms with PPG Paragraph 60-009, whilst the criterion 2.d) requirements for 'clawback' arrangements reflect PPG Paragraphs 60-007 and 60-008. Criterion 2.c) regarding size mix complies with CPP1 Policy CP20 and NPPF Paragraphs 61-62.

20. Two representations have objected to Footnote 29 which indicates that affordable rents will generally be set no higher than the Local Housing Allowance Housing Benefit limit. The Council considers this approach justifiable in the context of the city's significant levels of local housing need and very high 'affordability gap'. It reflects the Council's priority to secure housing which is genuinely affordable and follows directly from the conclusions of ED02 (Paragraph 6.10) regarding the rent levels that would be affordable for households on the Housing Register. PPG Paragraph 60-003 states that affordable private rents should be set at a level at least 20% below private market rents, which does not preclude a larger discount being sought (as in Policy H11 of the London Plan). In addition, the policy and supporting text at Paragraph 2.51 state clearly that the affordable provision (including the level of discount) will be subject to negotiation and viability considerations.

### **DM7 Houses in multiple occupation (HMOs)**

**Q1. Would this policy, when read together with City Plan Part 1 policy CP21, provide an effective policy framework to support the provision of HMOs, whilst permitting reversion to C3 family homes, given potential adverse impacts of HMOs and demand for family accommodation in the City?**

21. Yes, reversion to C3 family homes for small HMOs falling within Use Class C4 is permitted development. Part 1 of DM7 therefore only applies to large sui generis HMOs. It is considered appropriate to allow the housing market to respond flexibly to changes in demand for HMOs by allowing redundant shared properties to re-enter the wider housing market, given that such changes are unlikely to have adverse impacts on the amenity or sustainability of a residential area.
22. Representations were received suggesting the policy would constrain the availability of lower-cost shared housing. HMOs in Brighton & Hove are highly concentrated in the area broadly along the route of Lewes Road from the city centre to Falmer, and the Council accepts that the tougher policy tests will make additional conversions to HMO more difficult in these areas with already high concentrations. However large areas of the city currently have few HMOs (see Maps 1 and 2 in OD21 Small Houses in Multiple Occupation). The purpose of the policy criteria in DM7 and CP21

is to promote a more even distribution across the city thereby lessening the potential adverse impacts from significant concentrations that have been observed in some areas. At a strategic scale supply of HMOs will not be significantly constrained.

**Q2. Would the policy requirements be justified, effective and consistent with national policy and City Plan Part 1?**

23. Yes, Policy CP21 restricts new HMO development where concentrations are above 10% within a 50m radius of the application site. As explained in DM7 Paragraph 2.63, the effect of over-concentrations of HMOs at geographic scales other than a 50m radius can also lead to an imbalance in communities and consequent negative effects. DM7 introduces additional policy requirements to address this without conflicting with CP21.
24. Representations were received challenging assertions that HMOs can lead to negative effects on residential amenity and local communities; however this is not accepted. The negative impacts that can be caused by over-concentrations of HMOs are well known and are the reason that this Council and many others have implemented Article 4 Directions to enable more control over HMO distributions. Relevant evidence is set out in document OD21 (paragraphs 3.24-3.27).
25. A number of factors listed in OD21 Paragraph 3.25 cannot appropriately be controlled by the narrow consideration of HMO concentrations within 50m of a site as set out in CP21. Some factors, including the changing character of an area, closure of community facilities and exclusion of families from the local housing market manifest themselves when the proportion of HMOs rises at a wider neighbourhood level. This justifies criterion 2a.
26. An excess of HMOs in the immediate vicinity of a site can lead to significant negative effects on amenity even if the proportion within 50m is less than 10%. This justifies the additional criteria 2b and 2c.
27. The additional criteria, together with CPP1 Policy CP21, are considered to strike an appropriate balance in allowing continued HMO development whilst guarding against the negative impacts that can affect communities and households at various geographic scales. The intention is to ensure balanced, sustainable communities with a high standard of amenity for all residents in line with Paragraph 130(f) of the NPPF.

**Q3. Do the internal private and outdoor space standards set out in 2D of this policy accord with national policy and the PPG?**

28. Yes, NPPF Paragraph 130f requires planning policies to ensure high standards of amenity and Footnote 49 to that paragraph allows for use of the NDSS to do so where justified.

29. Footnote 7 of Policy DM1 makes clear that non-C3 accommodation such as HMOs will be expected to meet the standards where relevant. This allows for a more flexible application of the standards to reflect the different characteristics of HMOs compared to C3 accommodation. Application of standards for bedroom sizes in particular is considered justified to ensure a consistent approach in avoiding cramming of an excessive number of very small bedrooms into properties.

**Q4. Should the communal living space minimum space standards in paragraph 2.69 be included within policy?**

30. No, as Paragraph 2.69 sets other considerations to be taken into account in determining whether sufficient communal living space is provided, as well as the quantitative minimum of 16sqm for a 4 bedspace HMO. Given the considerable flexibility that these other considerations allow, the policy would not be effective if specific space standards for communal space were included in the policy wording, therefore the more general requirement in criterion 2e is considered more appropriate.

**DM8 Purpose built student accommodation (PBSA)**

**Q1. Would the policy requirements be justified, effective and consistent with national policy, City Plan Part 1 and, would they together with CP21, support the provision of PBSA to meet identified needs in the City, whilst supporting mixed and balanced communities?**

31. Yes, the policy builds upon CP21 with additional criteria relating to the nature and standard of accommodation of PBSA. Full justification for the policy criteria is set out in the supporting text to the policy.

32. Few objections to the policy were received. One representation argued that the requirement for a predominance of cluster units (criterion a) is not justified and should be left to market trends. The justification for this criterion is set out in Paragraph 2.76 of the supporting text. The same objector felt that criterion (f) was unjustified; however this type of requirement is already a common feature of management plans for PBSA developments which occupants must sign up to. The criterion is intended to help minimise the impact of residents parking on the surrounding areas, which could theoretically be significant given the large size (several hundred bedspaces) of some recently permitted developments.

33. They also requested specific standards considered acceptable by the Council (particularly in relation to criteria (b), (c) and (d)). Guidance on the application of these policy requirements is set out in paragraph 2.75 of the supporting text. It not considered appropriate to set specific space standards for communal space for Purpose Built Student Accommodation (PBSA) to allow for flexibility given the variety of types of development that could be brought forward.

34. The policy framework reflects the type of accommodation required for students, who form a significant element of the city's population, in accordance with NPPF paragraph 62. It is intended to support the delivery of affordable, high quality PBSA in the city whilst minimising potential adverse impacts on established residential communities.

**Q2. Would the inclusion of specific reference to food growing in this policy be justified?**

35. A specific requirement for food-growing is not considered justified for PBSA. Occupants are generally short-term and likely to vacate during academic vacations with consequent potential difficulties in maintaining food growing.

36. Several policies in CPP1 already support food growing and CPP2 Policy DM22 specifically requires food-growing to be incorporated in new development where practicable. These policies are supported by the OD11 Food Growing Planning Advice Note. This provides support should food-growing space be considered appropriate on a PBSA development site.