Expiry Date - 09/09/2025

Development Management – Delegated Officer Report

Application Number: AWDM/0793/25 **Recommendation – APPROVE**

Site: **189 Brighton Road Worthing West Sussex**

Proposal: **Application for a Lawful Development Certificate for an Existing use as four residential units and an HMO of eight rooms (Sui Generis). (187 and 189 Brighton Road)**

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings

The site comprises two two-storey properties located on the north side of Brighton Road opposite the seafront. They are set within an attractive terrace consisting predominantly of dwellings and some guest houses, all designed in symmetrical pairs with their neighbour with matching two storey bay windows positioned each side of decorative verandas set above the entrance door to their front elevation, rendered and with stucco detailing and arched windows. The front garden area is mainly paved and enclosed with a low brick and flint wall to the street frontage, matching others in the terrace.

The premises have been licenced as an HMO from October 2018 since being subject to mandatory licencing requirements. The premises are currently unoccupied.

The site is located within Flood Zones 2/3.

Proposal

The application is for a Lawful Development Certificate which seeks to establish the lawfulness of the existing use of the premises as four self-contained units and a large HMO of 8 bedrooms (sui generis). The application has been made on the grounds that the use has continued for more than 10 years.

The following evidence has been provided by the applicant with the application submission and further information submissions on 26/11/2025, 06/02/2026 and 02/03/2026 in support of the application.

Initially submitted in July 2025:

- Application Form
- Location Plan
- Ground Floor Plan
- First Floor Plan

- Tenancy Agreement
- Council Tax Bill
- Electricity Bill
- Water Bill
- 2018 HMO Licence
- 2023 HMO Licence
- Statutory Declaration

Information submitted on 26 November 2025

- Letter from council
- Land registry details
- Insurance quote
- Statutory declarations x 5

Information submitted on 6 February 2026

- Schedule of works
- Assured shorthold tenancy x 3
- Letters regarding occupation of flat 5/189 x 3

Information submitted 20 Feb 2026:

- Timeline of occupation of Flat 5 /189
- Assured Shorthold Tenancy Agreements x 3
- Statements regarding end of tenancy x2
- Payment transfer for flat 5
- Letters regarding the occupation of flat 5/189 x 2
- Invoices for works completed x2

Information submitted 2 March 2026:

- Building improvement spend

Relevant Planning History:
None

Representations:
One letter of objection:
I am a local resident and am writing on behalf of neighbours on Wyke Avenue.

The proposed development is located in a densely populated area that is already struggling with significant parking pressures and rising incidents of anti-social behaviour, issues that have worsened due to the growing number of HMOs in nearby Warwick Gardens.

Granting permission for this development would set a precedent for similar conversions along this row of properties, many of which are in disrepair and likely to require renovation in the near future. If this application is approved, it

is reasonable to expect that other landlords will follow suit, further compounding these existing problems. We are also concerned about the practical realities of how this HMO will operate. Where will residents park their vehicles? Where will they smoke? In both cases, the only realistic access point is via Wyke Avenue, directly adjacent to our homes, which will increase disruption, noise, and litter in a residential street that is already under strain.

Finally, we would like to understand what environmental or community impact assessments have been carried out in consultation with local residents. To our knowledge, no such engagement has taken place.

Officer's response: Existing use lawful development certificates assess only whether the use has been undertaken for a period of 10 years and does not assess the merits of the use itself.

Consultations:
Private Sector Housing –
"This HMO has been a licensed HMO since 2018, with the layout of the property unchanged as far as I am aware.

There is currently a 12-month HMO licence in place, the property being occupied as shown on the plans and application.

Private Sector Housing does not have any objections to the application."

Further information:
1. September 2008 - letter regarding the fire alarm in the HMO
2. April 2008 - letters regarding noise nuisance
3. January 2007 - letter regarding arranging an HMO inspection
4. February 2007 - letter regarding fire safety matters in the HMO
5. November 2016 - Fire Risk Assessment
6. November 2016 - letter regarding improvement works in the HMO

Planning Assessment

The relevant consideration is a matter of fact and degree whether the evidence submitted in support of the application demonstrates on the balance of probability that the use has existed for 10 or more years and is therefore exempt from enforcement action, with the burden of proof on the applicant. The planning merits of the use are not relevant in making a decision.

The application has been made initially based on the following description of the use: Application for Certificate of Lawfulness for Existing Use as four self-contained flats and an HMO of 8 bedrooms (Sui Generis.

The key issue to consider is whether the existing use has remained throughout the relevant 10-year period from 17 June 2015 to 17 June 2025 when the application was made.

<u>Current use</u>

A House in Multiple Occupation (HMO) is a house where unrelated occupants share basic amenities in the building such as a kitchen or bathroom. This covers a small, shared dwelling house occupied by up to six unrelated residents (Class C4) who occupy the HMO as their main or only residence, and with larger or more intensively used HMOs being ‘sui generis’.

In this case, the site is currently unoccupied, but the licencing arrangements confirm 12 letting rooms with 13 occupants permitted in October 2018 and 2023 under the conditions of the licence. The plans indicate that four of the units are self-contained while 8 bedrooms share kitchen and bathroom facilities.

Whether a change of use has occurred within the relevant 10-year period

The planning history for the site does not give an indication of the use of the building within the relevant period.

The information initially submitted included a statutory declaration. The statutory declaration from the ex-employee states that the use has been an HMO since 2003, but this declaration does not elaborate on what this entails/entailed in terms of rooms, facilities, services, or relationship with the Council in letting rooms etc. It also indicates that the 12 units are all self-contained. Three individual bills were submitted but these did not provide any information on the layout of the flats and were all dated in 2025.

Following comments from the Private Sector Housing team there were concerns that the number of units may have changed due to a fire safety assessment they provided indicating 11 rooms or units on site. The initial information therefore did not satisfactorily prove that the use as 4 units and an 8 bed HMO had been in continuous use for at least 10 years.

Due to the lack of elaboration further information has been requested and in November 2025 the applicant submitted five further statutory declarations from previous tenants indicating the use as 4 self-contained units and an 8 bed HMO with various dates, the earliest from 5 August 2016. These have added further clarification on the use of the rooms as residential. Following the submission of this it has been confirmed that most of the rooms / units over the required period have been in a continuous use other than when works to ensure that they are safe have been completed on the site.

Due to the reference to one of the rooms being identified as a store room in correspondence, further information has been sought regarding the occupation of Flat 5 of 189 Brighton Road. Further information in the form of ASTs, letters and a timeline of occupation was submitted clarifying the continuous use of the unit. Whilst there have been brief gaps within the last 10 years of occupation these have been for the renovation and for the natural gaps between tenants moving out and new tenants being brought in.

Having considered all the submitted evidence, it is considered that on the balance of probability the use as a large HMO and self-contained units as

described has existed for 10 years or more and is therefore lawful in planning terms.

Recommendation

ISSUE CERTIFICATE

On the basis of the available evidence the Local Planning Authority is satisfied that on the balance of probability the existing use of the premises as four self-contained units and an 8-bedroom HMO (Sui Generis) is lawful in planning terms and as such has achieved immunity from enforcement action.

Is recommendation contrary to letter(s) of representation? Y

Case Officer: Finlay Gardner Date: 22/04/2026

Authorised by: Louise Prew Date: 24/04/2026