



**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	11 January 2017
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 4AH
Members:	<p>Councillors: Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Morris, Moonan and Russell-Moyle</p> <p>Co-opted Members: Jim Gowans (Conservation Advisory Group)</p>
Contact:	<p>Penny Jennings Democratic Services Officer 01273 29-1065/29-1354 planning.committee@brighton-hove.gov.uk</p>



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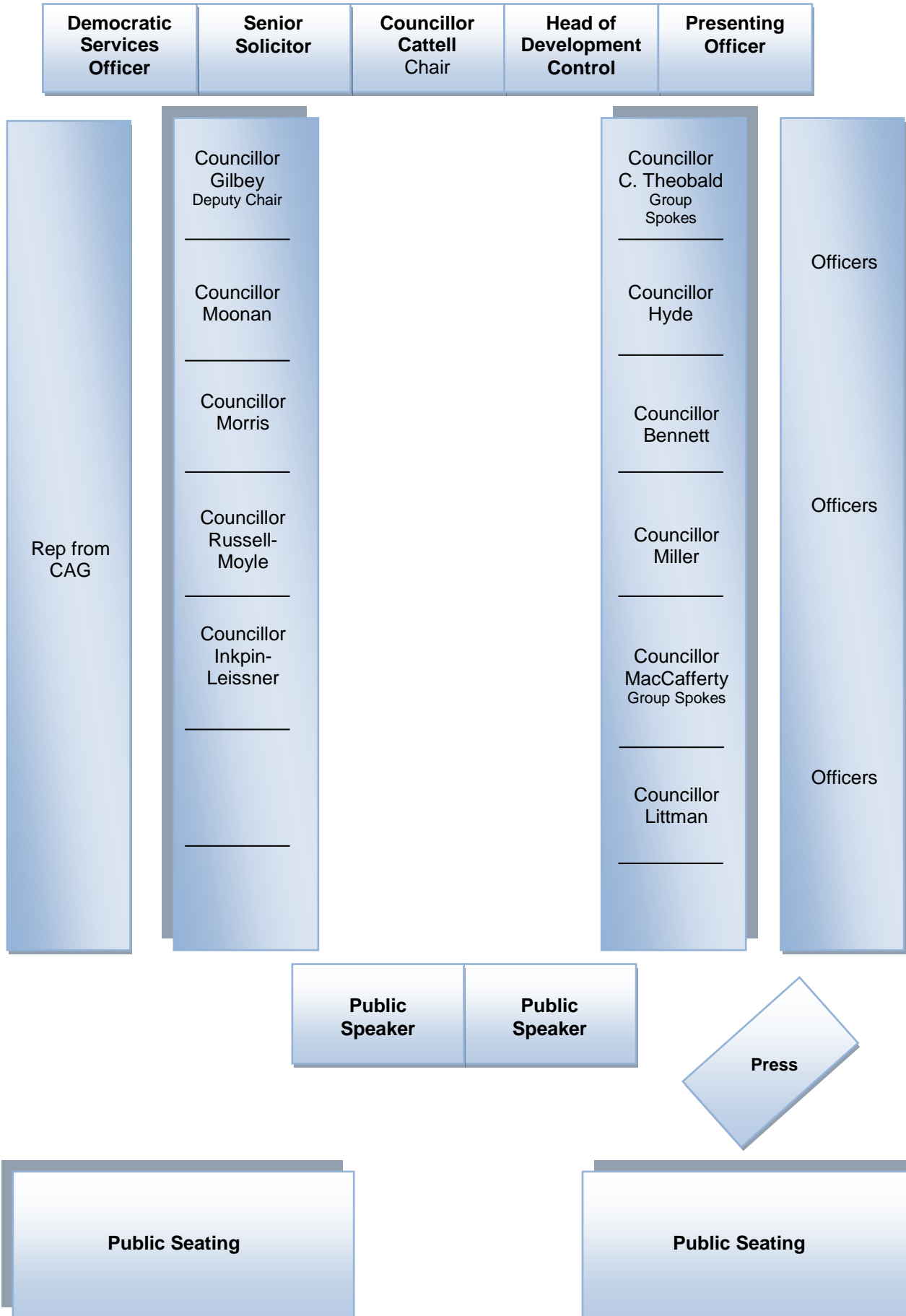
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Democratic Services: Planning Committee



AGENDA

90 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest or Lobbying

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(d) All Members present to declare any instances of lobbying they have encountered regarding items on the agenda.

(c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

(d) Use of mobile phones and tablets: Would Members please ensure that their mobile phones are switched off. Where Members are using tablets to access agenda papers electronically please ensure that these are switched to 'aeroplane mode'.

PLANNING COMMITTEE

91 MINUTES OF THE PREVIOUS MEETING

Minutes of the meeting held on 14 December 2016 (to be circulated separately).

92 CHAIR'S COMMUNICATIONS

93 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 12 noon on 6 January 2017.

94 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

95 ENFORCEMENT ACTION TAKEN, ANNUAL REPORT 2015/2016

Report, Director of Economy, Environment and Culture (copy attached)

Contact Officer: Robin Hodgets

Tel: 01273 291157

Ward Affected: All Wards

96 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

Please note that the published order of the agenda may be changed; major applications will always be heard first; however, the order of the minor applications may be amended to allow those applications with registered speakers to be heard first.

MAJOR APPLICATIONS

A BH2016/01961- 46-54 Old London Road, Brighton - Full Planning 1 - 44

Demolition of existing buildings and erection of a 3 storey building containing 44 assisted living apartments for older persons with associated communal facilities, parking and landscaping.

RECOMMENDATION – WOULD HAVE REFUSED

Ward Affected: Patcham

B BH2015/04184 -Court Farm House, King George VI Avenue, Hove - Full Planning 45 - 102

Demolition of existing buildings and erection of 2no three storey blocks (one with basement parking) and 2no part three part four storey blocks containing 69no one, two and three bedroom flats (C3) (including 28no affordable housing units). Provision of 107 parking spaces, (67no at basement level and 40no at surface level) and 132 cycle spaces with associated landscaping and altered site access arrangements.

PLANNING COMMITTEE

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Hangleton & Knoll

- C BH2016/02742 -Devonian Court, Park Crescent Place, Brighton -Full Planning 103 - 112**

Planning permission is sought for variation of condition 2 of application BH1998/01631/FP (Removal of suspended paved area to expose basement elevation (Blocks 1 & 2) to facilitate conversion to 7 no. flats. Replacement pitched roof (Blocks 1 & 2) and use of roofspace to provide 6 no. flats, revised parking area for 12 cars and landscaping.) to allow amendments to the fenestration and layout of the proposed mansard extension to Block 2.

RECOMMENDATION – GRANT

Ward Affected: St Peter's & North Laine

MINOR APPLICATIONS

- D BH2016/02377-11 Coombe Vale, Saltdean, Brighton - Full Planning 113 - 124**

Roof alterations incorporating hip to barn end roof extensions, rear dormers, front rooflight and front and side windows and erection of front porch extension.

RECOMMENDATION – REFUSE

Ward Affected: Rottingdean Coastal

- E BH2016/00448 - 11 Radinden Drive, Hove - Full Planning 125 - 138**

Erection of replacement detached dwelling house (C3) with associated landscaping.

RECOMMENDATION – GRANT

Ward Affected: Hove Park

- F BH2016/02810- 57 Hornby Road, Brighton -Full Planning 139 - 154**

Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4).

RECOMMENDATION – GRANT

Ward Affected: Moulsecoomb & Bevendean

- G BH2016/05563- Tyson Place and St John's Mount, Brighton - Full Planning 155 - 166**

Installation of insulated render cladding to all elevations and replacement of existing windows and doors with uPVC windows and doors and associated elevations.

RECOMMENDATION – GRANT

Ward Affected: Queens Park

PLANNING COMMITTEE

- H BH2016/01870- 51 St James's Street, Brighton - Full Planning 167 - 176**

Erection of covered seating area on raised decking to rear courtyard. (Retrospective)

RECOMMENDATION – GRANT

Ward Affected: Queens Park

- I BH2016/00320, 67 Falmer Road, Rottingdean, Brighton - Full Planning 177 - 198**

Demolition of existing house and garage and erection of 4no four bedroom and 5no three bedroom houses (C3).

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Rottingdean Coastal

- 97 TO CONSIDER ANY FURTHER APPLICATIONS IT HAS BEEN DECIDED SHOULD BE THE SUBJECT OF SITE VISITS FOLLOWING CONSIDERATION AND DISCUSSION OF PLANNING APPLICATIONS**

INFORMATION ITEMS

- 98 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 199 - 200**

(copy attached).

- 99 LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS)**

(Not Available – Update to be given at the meeting)

- 100 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 201 - 202**

(copy attached).

- 101 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 203 - 204**

(copy attached).

- 102 APPEAL DECISIONS 205 - 262**

(copy attached).

Members are asked to note that plans for any planning application listed on the agenda are now available on the website at:

<http://www.brighton-hove.gov.uk/index.cfm?request=c1199915>

PLANNING COMMITTEE

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If you have any queries regarding this, please contact the Head of Democratic Services or the designated Democratic Services Officer listed on the agenda.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 29-1065/29-1354, email planning.committee@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Tuesday, 3 January 2017

ITEM A

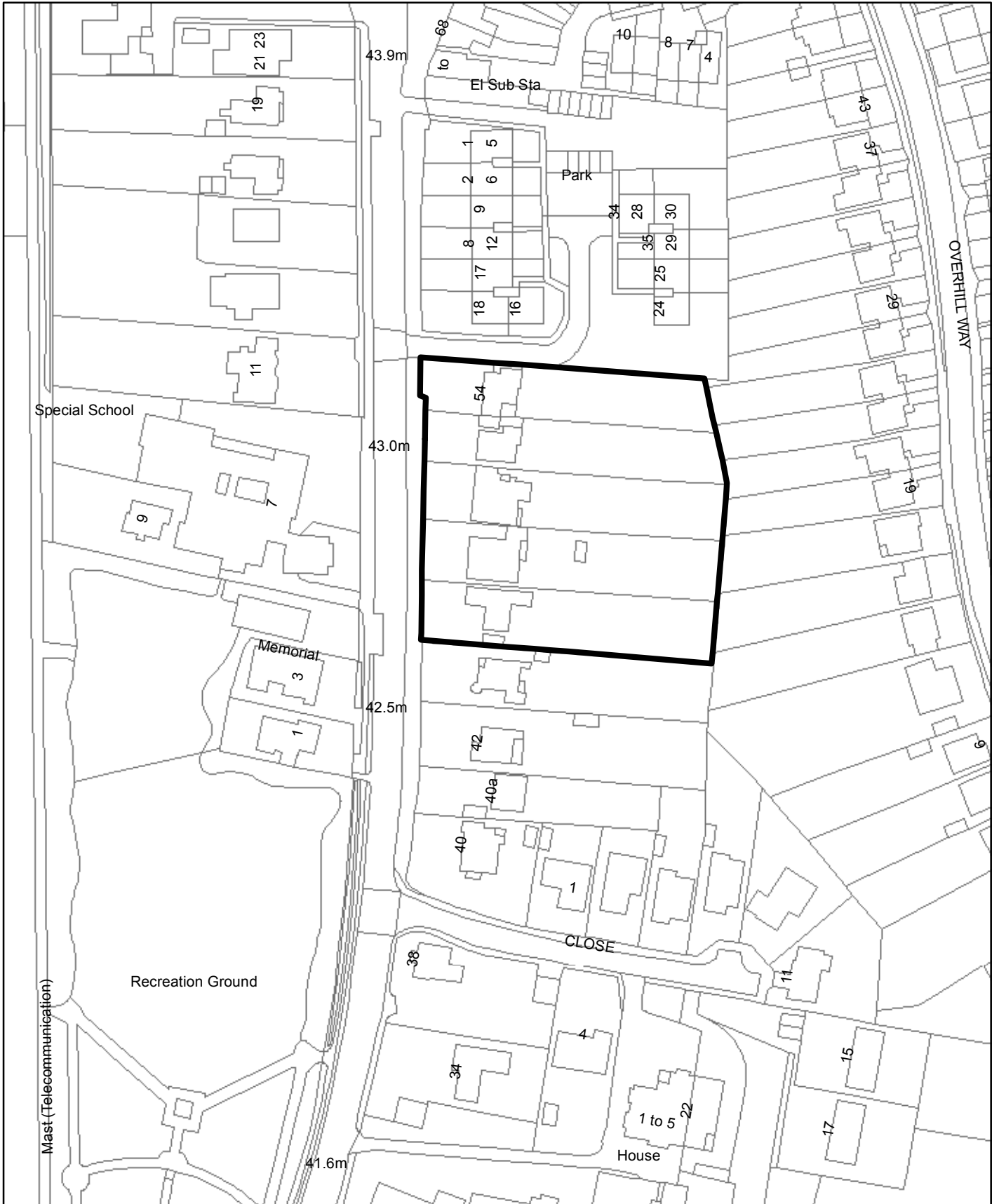
46-54 Old London Road, Brighton

BH2016/01961

Full planning

11th January 2017

BH2016/01961 46-54 Old London Rd, Brighton



**Brighton & Hove
City Council**



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Scale: 1:1,250

<u>No:</u>	BH2016/01961	<u>Ward:</u>	Patcham Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	46-54 Old London Road, Patcham, Brighton, BN1 8XQ		
<u>Proposal:</u>	Demolition of existing Buildings and erection of a 3 Storey building containing 44 assisted living apartments for older persons with associated communal facilities, parking and landscaping.		
<u>Officer:</u>	Sarah Collins, tel: 292232	<u>Valid Date:</u>	08.07.2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	07.10.2016
		<u>EoT/PPA Date</u>	21.10.2016
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	The Planning Bureau Ltd 2 Genesis Business Park Albert Drive Woking GU21 5RW		
<u>Applicant:</u>	Yourlife Management Services Ltd 2 Genesis Business Park Albert Drive Woking GU21 5RW		

1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves that it **WOULD HAVE REFUSED** planning permission, had an appeal against non-determination not been made, for the following reasons:
- 1 The proposed development would add vulnerable people to an area with a significant history of groundwater flooding and where flooding is likely to reoccur. In addition, the amount of permeable surface at the site would be reduced; the development has not adequately taken the flood risk into account, has not offered appropriate mitigation measures and has not proposed an appropriate sustainable drainage system. The development is therefore contrary to the National Planning Policy Framework, Brighton & Hove City Plan Part One policies SS1 and CP11, and saved Brighton & Hove Local Plan policy SU5.
 - 2 The proposed development is considered to detract from the character and appearance of the street scene and the locality due to the scale, density, massing and width of the building, the contrived and uncharacteristic roof form, the unsympathetic external materials and the loss of trees and shrubs across the site, particularly on the street frontage, and insufficient replacement planting, contrary to saved Brighton & Hove Local Plan policies QD5, QD15, and QD16, and Brighton & Hove City Plan Part One policies CP12, CP13 and CP14.
 - 3 It has not been demonstrated that the future occupiers of the proposed development would be sufficiently protected from noise disturbance from the proposed external sub-station, and the ground floor facilities, the hairdressers

and the staircases and plant rooms within the development, contrary to Brighton & Hove saved Local Plan policies SU10 and QD27.

- 4 The applicant has not committed to complying with the requested developer contributions, towards affordable housing, open space and indoor sport, sustainable transport, an artistic component and the Council's local employment scheme, and has not justified this through a financial viability assessment of the scheme, contrary to saved Brighton & Hove Local Plan policy HO12, and Brighton & Hove City Plan Part One policies SA6, CP2, CP5, CP7, CP9, CP13, CP14, CP16, CP17, CP18, CP19 and CP20.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. This decision is based on the drawings received listed below:

Plan Type	Reference	Version	Date Received
Location Plan	SE_2230_03_AC_001		21 June 2016
Block Plan Existing	SE_2230_03_AC_002		27 May 2016
Tree Survey	8944/01		27 May 2016
Block Plan Proposed	SE_2230_03_AC_010	E	21 July 2016
Topographical Survey	PP/31000/PATC HAM/2015/F1		21 June 2016
Floor Plans Proposed	SE_2230_03_AC_011	E	21 July 2016
Floor Plans Proposed	SE_2230_03_AC_012	D	21 July 2016
Elevations Proposed	SE_2230_03_AC_014	D	27 May 2016
Elevations Proposed	SE_2230_03_AC_015	E	27 May 2016
Sections Proposed	SE_223-03_AC_016	C	27 May 2016
Material sample/detail	SE_2230_PATC HAM		15 June 2016
Roof Plan Proposed	SPS-C283-PATCHAM-MECH		11 August 2016
Existing Floor Plans and Elevations	PP/3100/PATCH AM/2015/F1		21 June 2016
Existing Floor Plans and Elevations	PP/3100/PATCH AM/2015/F1		21 June 2016
Existing Floor Plans and	PP/3100/PATCH		21 June 2016

Elevations	AM/2015/F2		
Tree Survey	8944/02		27 May 2016

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The site is located in a predominantly residential area of mainly low-rise detached housing set within well-vegetated plots. The site lies on the east side of Old London Road and comprises five detached dwellings, nos. 46 to 54. Number 46 at the southern end of the site is a bungalow with clay tiled roof and half brick, half pebbledash finish. 48 and 50 are chalet style bungalows, with steeply pitched clay tiled roofs which contain additional accommodation. Numbers 52 and 54 are detached two storey houses with clay tiled roofs and half brick, half render finishes.
- 2.2 An Area Tree Preservation Order covers the plot of number 54 (and extends to number 11 on the opposite side of Old London Road). However, none of the existing trees at number 54 were present at the time of the Tree Preservation Order in 1971 (ref: 1971-16) and therefore they are not protected.
- 2.3 The site measures approximately 67m to 71m (East to West) by 67m (North to South) with a site area of approximately 4,638sqm (0.46 hectares). The site slopes gently upwards to the east. The existing houses are set approximately 15 to 18 metres back from Old London Road. There is no pavement on this side of the road but instead grass verges of approximately 3 to 4m depth. The front boundary treatments of the existing houses generally consist of low brick walls and substantial hedges, shrubs and small trees interrupted by the driveways of each property so that there is a verdant character to the road frontage, with the exception of the frontage of number 54, which is more open albeit there is some planting and a large tree at the northwest corner.
- 2.4 To the south of the site this verdant character and green verges continues to the property frontages. Immediately to the south is number 44 Old London Road, which is a two storey detached house with clay tiled roof hipped on all sides and set approximately 2.6 metres from the site boundary. There are some windows at ground and first floor level on the flank elevation facing the site. Further south is Audrey Close, perpendicular to Old London Road which rises steeply up to the east. Some of the more elevated properties on the north side of Audrey Close have views onto the site and are sited approximately 50 metres from the site boundary.
- 2.5 To the east of the site are the rear gardens of properties in Overhill Way (nos. 13 to 27). These houses are situated approximately 30 to 45 metres from the site boundary and are in an elevated position, approximately 6 metres above the site level.
- 2.6 Opposite the site to the west is Patcham House School, a school for children aged 11 to 16 with learning difficulties. The frontage building is on the Local List of Heritage Assets and is faced in flint with red brickwork edging and has pitched clay tiled roofs with gable ends. There is a brick wall and metal railings to the frontage. South of the school is the Patcham Memorial Hall, which is a

gable fronted single storey building with white painted brick walls and clay roof tiles. Further south is a recreation ground called Patcham Peace Gardens which is on the Local List of Heritage Assets. There are also detached dwellings further north on this west side of Old London Road, but most are not clearly visible due to mature trees and hedges to the road frontage.

- 2.7 To the north of the site and accessed by a private road adjacent to the northern site boundary is Park Court, a three storey brick built development with fully hipped roofs comprising 36 flats in two blocks - one 45 metre long by 17 metre deep (at the southern end) on the frontage and the other 30 metres long by 16 metres deep (at the northern end). These apartment blocks are set minimum 9 metres and 12 metres from the site boundary respectively. There is substantial planting on the Old London Road frontage to the site. Beyond Park Court is a small and thriving Local Shopping Centre and the southern end of Patcham Conservation Area, which lies approximately 65 metres from the northern boundary of the site. This Conservation Area Character Statement describes it as "a small downland village, forming a distinct settlement to the north of Brighton"..."with suburban development to the south and east. Substantial tracts of green space and mature trees surround much of the village, such that it still appears distinct from the surrounding suburbs." The existing houses (46-54 Old London Road) are not clearly visible from the Conservation Area, but the grass verges and front boundary treatments can be seen.
- 2.8 Along the east side of Old London Road to the site frontage, parking is restricted. On the west side, there is a heavy demand for on-street parking, continuing up to the local shopping centre. Bus stops providing one route to and from the city centre are located within 40 metres of the site.
- 2.9 The site lies within a Low to Medium Flood Risk from Surface Water (with part of the site at risk of 300 to 900mm flood depth and part of the site with a velocity over 0.25m/s) and Old London Road has a High Flood Risk from Surface Water (of less than 300mm flood depth and velocity over 0.25m/s), according to the Environment Agency's Flood Risk information.
- 2.10 The application proposes the demolition of the five dwellings (nos. 46 to 54 Old London Road inclusive) and redevelopment of the site to provide 44 (22 no. 1 bed and 22 no. 2 bed) self-contained "assisted living" apartments in a three storey T-shaped building, with 27 car parking spaces, a sub-station, and a mobility scooter store, refuse store, and communal facilities including a kitchen, restaurant, function room, lounge, wellness studio, laundry room and a staff room, staff bedroom and a guest suite. Lift access (two lifts) is provided to all floors from the main entrance lobby.
- 2.11 There would be one vehicular access for the development positioned approximately 6 to 7 metres from the northern boundary leading to 3 parking spaces at the front of the development and 24 parking spaces at the rear. A pedestrian entrance is proposed at the rear of the building for those travelling by car or mobility scooter and the main pedestrian entrance is at the front of the building, roughly centrally located between the two gables. The existing grass

verges would be retained/reinstated except for the vehicular access and a small paved area in front of the main pedestrian entrance.

- 2.12 The building would have a frontage length of approximately 60 metres (excluding the sub-station) and would be set approximately 2 to 3 metres from the northern boundary (with the exception of the sub-station which would be up to the boundary) and approximately 2.4 to 4.6 metres from the southern boundary. The front section of the building would be approximately 18 metres deep (or 19.5 metres including the two projecting gables). The rear section of the building would extend approximately 33 metres from the front section and have a width of up to 20 metres. The rear section would be set approximately 6.5 to 8 metres from the rear boundary. This rear section would be built into the natural ground levels which rise up to the rear so that a retaining wall would be required at the back of the site and the first floor of the building would be at the approximate ground level of the rear gardens of the neighbouring properties in Overhill Way. The rear section would be set approximately 18.5 metres from the northern boundary and approximately 27.5 metres minimum from the southern boundary.
- 2.13 The building frontage would be set approximately 13.5 to 15 metres from Old London Road and the building line would be roughly level with the frontages of Park Court to the north and no.44 to the south. However, the two front gables and the sub-station would be set slightly forward of this.
- 2.14 The front of the building would have two 3 storey gable projections and the remainder of the façade would appear 2.5 storeys with dormer windows in the roof, except for the southern end of the building which would drop down to 1.5 storeys. The roof form is unconventional, as the pitched roof does not extend across the whole building. Behind the frontage the pitched roof steps down to a flat roof, and then rises again to form two more pitched roof forms at the northern and southern ends of the building, forming two valleys when viewed in section. The pitched roof also has three 'cut-outs' of varying size to the front elevation so that the roof is a combination of pitched roofs, gables, and flat roofs of varying height. The 'false pitched' roofs would be apparent from Old London Road and Park Court to the north of the site. The northern end of the building would be gabled and the southern end would have a 'half-hip'.
- 2.15 The two gable projections would be inset on all three floors with an inset up to the fascia level on the top floor. The external materials would comprise of red brick and white painted render for the walls with a course of vertical bricks between ground and first floor levels and above each window and door at first and second floor level; grey slate roof tiles; white uPvc for the fascia soffits, windows and doors; anthracite grey uPvc for the rainwater goods; grey steel balustrading and glass infill panels for the balconies; dark grey powdercoated steel railings to the road frontage, and timber close-boarded fencing to the side and rear boundaries.
- 2.16 The Tree Protection Plan (8944/02) indicates that 27 trees are to be removed and 24 are to be retained, 7 of which are to be pruned or have the crown lifted. Most of those trees proposed for removal are in the rear gardens of the existing

properties and range between 3 metres and 15 metres in height. There are no protected trees on the site, and none of the trees are Grade A. Of the 12 trees considered to be Grade B, 10 are to be retained. The Tree Protection Plan indicates that some of the root protection areas of the retained trees will be encroached upon by the retaining walls at the rear of the proposed development, and by the new vehicular access and car park.

- 2.17 The Design & Access Statement provides indicative landscaping plans for the development. The Softworks Plan slightly conflicts with the tree protection plan - the Softworks Plan indicates that a tree on the frontage (no.26) and a tree to the southern boundary (no.2) are to be retained however the tree protection plan indicates they are to be removed. The Softworks Plan proposes a mainly lawned area to the frontage with hedges to the front boundary and around the private terraces. Benches are proposed along the path to the main entrance. To the rear, the communal garden comprises a central lawn surrounded by a footpath with benches, a tool shed and raised planters and planted beds beyond with some new tree planting, mainly to the eastern boundary. The indicative Lighting Plan proposes 17no. bollard lights: 3 to the front, 4 around the rear car park, 2 to the southern side access and 8 around the lawn in the rear communal garden.
- 2.18 In terms of the site's planning history which is set out below, this scheme is of a similar scale to the two previous applications (**BH2003/02944/FP** and **BH2004/03459/FP**) in that it comprises a building of 3 storeys in a 'T' shape footprint which extends uninterrupted across the width of the site frontage, with the exception of the vehicular access. The main differences with this application are the relocation of the vehicular access from the southern end to the northern end of the site and the upper floors now extend over this access, a reduction in the number of apartments from 58 (**BH2003/02944/FP**) and 52 (**BH2004/03459/FP**) to 44, a different approach to the roof form (the previous schemes proposed a fully hipped roof form), the introduction of two front gables and white painted render finishes on the front elevations.
- 2.19 Assisted living is defined by the applicant as Extra Care Accommodation and is aimed at the provision of independent living for the frail elderly with day to day assistance in the form of domestic help and domiciliary care tailored to owners' individual needs. The accommodation is purpose-built with a variety of facilities provided within the building, which necessitates a single footprint of built form. Assisted Living offers more than a typical 'sheltered/retirement' development, with extensive on-site facilities built to a higher specification - the communal areas in a conventional sheltered (Category II) scheme are the equivalent of 4 flats, whilst in Extra Care schemes they occupy the equivalent of 9 flats.
- 2.20 The accommodation is designed to be fully accessible for wheelchair users and units are capable of adaptation for wheelchair use when required. The prospective occupiers of the Extra Care development are assessed prior to entry and are offered care packages to suit their needs as they change over time, rather than paying the fixed costs of a nursing home. Staff provide 24 hour cover and consist of a manager, deputy managers and support staff, who provide assistance with daily activities and care to residents, as well as a chef

and grounds management, which equates to approximately 14-17 full time posts.

- 2.21 The service charge covers all the on-site facilities including daily meals, 24 hour staffing, storage and charging of mobility scooters, cleaning and maintenance, personal care and assistance, and therefore costs residents circa £120-135 per week (1 bed flat) and £150-180 per week (2 bed flat). The service charge in a Category II development will be significantly less than this, circa £30-35 per week (1 bed flat) and £40-45 per week (2 bed flat).
- 2.22 The average age on entry to a McCarthy and Stone Assisted Living (Extra Care) development is 85 years. Under the standard lease, the entry age is set at 70 years, allowing for a younger spouse/partner where necessary. The resident must also meet the Qualifying Person Criteria set out in the lease and sign up to a residency agreement. The applicant suggests a condition may be applied to a consent for the development, requiring that at least one of the occupiers of each unit must be a 'qualified person' (70 years +) and the partner must be at least 60 years. The applicant states that they would also accept a condition restricting the development to the use specified in the application and for no other purpose.
- 2.23 The applicant states that the Assisted Living model has care built in and is therefore classified as a C2 use, which is defined under the Use Classes Order as "use for the provision of residential accommodation and care to people in need of care." The applicant further states that the scheme will be registered with the Care Quality Commission. The development is to be managed by Yourlife Management Services Limited, a Domiciliary Care Agency.

3. RELEVANT HISTORY

- 3.1 The dwellings on the site date from the 1930s and 1940s. There is no relevant planning history for these. Park Court dates from the late 1950s.
BH2004/03459/FP - Demolition of existing houses (nos. 46-54) and redevelopment of site to provide 52 assisted living apartments for frail elderly persons. Including staff accommodation, communal facilities, car parking for 20 cars and landscaping. Refused 12 January 2005. Reasons for refusal were similar to the previous application (below) with the additional reason of lack of on-site amenity space and no contribution offered towards off-site open space. An appeal was submitted and a Public Inquiry was intended but the appeal was withdrawn by the applicants in September 2005.
- BH2003/02944/FP** - Demolition of existing houses (nos.46-54) and redevelopment of site to provide 58 assisted living apartments for frail elderly persons. Including staff accommodation, communal facilities, car parking for 20 cars and landscaping. Refused 27 November 2003. Reasons: for its size and design, lack of sustainable measures, loss of amenity to neighbours due to noise from intensity of use and proximity of access and car park to no.44, not demonstrated impact on traffic or parking and transport in the area, no contribution towards public art, no affordable housing, and not demonstrated capacity of drainage system. An appeal was lodged against this decision and a

Public Inquiry was scheduled for July 2004. This appeal was withdrawn by the applicants in March 2004.

4. REPRESENTATIONS

4.1 **Three hundred and forty seven (347)** letters have been received (addresses listed in Appendix 1), objecting to the proposed development for the following reasons:

4.2 Design issues

- The development will spoil the semi-rural character of the historic village
- The existing houses and their generously planted front gardens are attractive and they add to the rural character of the village
- The development will detrimentally affect the Patcham Conservation Area
- The development is too large, too high, is overdevelopment and will dominate the area
- There is insufficient usable amenity space at the development
- The façade design is unsympathetic and a pastiche of Regency, Victorian and Georgian town centre terraces and is a caricature of fine historic buildings, inappropriate to the village.
- McCarthy & Stone use a standard design which is cheap to build and only tweaked for each development - the design does not take into account the local character which is why it would be detrimental to the character of Patcham Village
- The materials are not sympathetic with the surrounding buildings
- There are not enough trees on the frontage and the replacement planting would be immature and not replace the visual and groundwater-absorbing qualities of the existing trees to be lost
- The loss of the trees will be detrimental to wildlife
- The development will cause overlooking to neighbours
- The development will cause overshadowing to neighbours
- The lighting will cause disturbance to neighbours and wildlife
- The solar panels would cause glare
- The new fencing would restrict movement of wildlife through the area

4.3 The proposed use

- The development won't provide a diverse population and there are already too many retirement properties in the area
- The loss of family homes is regrettable as these are in short supply in the city
- The provision of daily catering on site won't support the local eateries
- There are not enough facilities in Patcham to cater for additional residents (no doctors, chemist, or bank) and there would be too much pressure on GP surgeries and healthcare
- The properties will be too expensive for most elderly people in the local area
- The development would provide no affordable housing

- The development is advertised nationally so will not necessarily provide housing for local need.

4.4 Groundwater flooding and drains capacity

- The Environment Agency list Brighton & Hove as one of only ten flood risk areas in England and the Patcham area is classified as a flood risk hotspot in BHCC's Surface Water Management Plan
- There is a high risk of flooding which will be increased by removal of trees and permeable ground.
- There will be additional pressure on the drainage system and sewerage and drains capacity has not been adequately assessed.
- Residents in 2000 were unable to use their toilets for weeks due to groundwater flooding and porta-loos had to be provided in the village for the residents. Raw sewage overflowed into roads, gardens and basements.
- BHCC appointed engineers in 2001 to investigate the problem
- During floods the road has to be closed and people can't live in their houses. Bad flooding in 2000 and 2014.
- BHCC installed 5 pumps and pipework in 2014 to help alleviate flooding issues which is an ongoing problem
- Flood alerts were received in Old London Road on 24th December 2012, 22nd December 2013, 30th Jan 2014, 17th January 2015, and 8th January 2016.
- To permit a major development in this area without an effective solution to the groundwater flood perils would be extremely unwise.
- Notes from a BHCC Committee Meeting on 21 June 2001 were submitted with an objection, detailing the problems with groundwater flooding in Patcham as well as other sites in Brighton, and details of the flood in the winter of 2000/2001 and suggesting various flood alleviation measures.

4.5 Highway issues

- There is limited on street parking in the area so the development will cause overspill parking
- The additional residents and traffic will cause noise and disturbance and worsen road safety for the school and nursery nearby
- Old London Road is very narrow so it will cause traffic congestion and impact on safety, especially during construction
- The development will cause a large increase in traffic from staff, residents, visitors and deliveries and emergency services will find it difficult to access the site
- There is no pavement on this side of the road so this should be provided for the elderly residents so they don't have to cross the road to get to the shops and bus stops
- The road is already a rat-run and there are problems with speeding which will get worse with the development and would be unsafe for the new elderly residents trying to cross the road
- The construction of the development will be disruptive to residents and traffic flows

4.6 **Councillor Geoffrey Theobald:** objects to the proposals (copy of letter attached).

4.7 **Caroline Lucas MP for Brighton:** objects to the proposals on the grounds of increasing flood risk and the developer should prove beyond doubt that there would be no increased flood risk before the application can be supported.

4.8 **Eight (8)** letters have been received (addresses listed in Appendix 1), supporting the proposed development for the following reasons:

- The development of private sector assisted living (extra care) accommodation is needed in Patcham.
- The McCarthy & Stone extra care schemes are of a very high standard
- The location is perfect for the development, close to shops, good bus links into the city
- Parking won't be a problem

4.9 **Councillor Karen Barford:** supports the proposals:

As lead member for Adult Social Care, I am writing in support of the above mentioned planning application. Brighton and Hove have a known under-supply of accommodation for older people with care needs in the city. The Brighton and Hove City Council's business case in 2015 identified a shortfall in extra care housing provision of between 380 and 1100 additional places from now until 2025. Housing and care in the community is generally preferred by residents rather than traditional care homes. I know that the council is committed to securing cost effective housing options to enable people to live independently with dignity in their own home in a supported environment and one that enhances their quality of life. This includes developing alternative solutions for vulnerable adults with differing care and support needs. I understand that the council values a range of tenancies and care that is both private and publicly funded, with a focus on priority given to local people. I feel that the proposed development will enhance the housing offer in the city, flexibly providing additional care and support to its residents in their own homes as and when they need it. I therefore urge you to support this planning application on the basis of the above reasons.

5. CONSULTATIONS

5.1 External

5.2 **County Archaeology:** Comment

The site lies just outside the southern margin of an Archaeological Notification Area within a dry valley. The existing buildings on the site are not considered to have any great heritage significance. Taking into account the location of the site within the dry valley and the presence of 20th century buildings which will have impacted any below ground remains, I consider it unlikely that these proposals will have a significant archaeological impact. I have no further comments to make.

5.3 **Ecology:** Comment

Insufficient information has been provided to assess the potential impact of the proposed development on bats.

- 5.4 Following the submission of a bat survey, the County Ecologist provided a further response:
- 5.5 The surveys were carried out in accordance with best practice although over a compressed period. No evidence of roosting bats was found although the buildings retain the potential to support roosting bats. As such, a precautionary approach to demolition is recommended whereby features that could be used by roosting bats are stripped carefully by hand under the supervision of a suitably qualified and experienced ecologist. Alternative roosting features should be provided on the new buildings and on mature trees around the boundaries as recommended in the report; those on trees should be installed prior to demolition. A sensitive lighting scheme is also recommended.
- 5.6 Breathable roofing membranes can cause mass mortalities of bats in roofs particularly during the breeding season. The membranes affect both species which roost directly below the roof membrane (long-eared bats, horseshoes etc) and bats which roost between the roof lining and the roof tiles (e.g. pipistrelles). Given the known presence of bats in the area, non-breathable bitumastic membrane should therefore be used instead of breathable membrane.
- 5.7 Provided the above mitigation measures are implemented, as well as those provided in my earlier advice (below), it is recommended that the application can be supported from an ecological perspective.
- 5.8 The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any demolition of buildings or removal of scrub/trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation. Mitigation should be provided for any nesting habitat lost.
- 5.9 It is considered unlikely that the site supports any other protected species. If protected species are encountered, works should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.
- 5.10 In addition to any mitigation that may be required for protected species, the site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and the NERC Act. Opportunities include the provision of bird and bat boxes, and the use of species of known value to wildlife within the landscaping scheme. Advice on plant species of value to wildlife can be found in the Council's SPD 11, Annex 7 Notes on Habitat Creation and Enhancement.

- 5.11 It is noted that solar panels are to be provided, given the evidence that the efficiency of green roofs increases when provided in combination with solar panels, it is recommended that consideration is given to the provision of green (chalk grassland not sedum) roofs.
- 5.12 **Environment Agency: No Comment**
The development proposed was not considered to fall within the Environment Agency's External Consultation Checklist. Therefore the Environment Agency is not reviewing the proposals in detail or providing comments.
- 5.13 The checklist combines those developments for which the Environment Agency is a statutory consultee and those which the Environment Agency request to see because of their potential risk to flooding and/ or the environment.
- 5.14 Although the site is located within Source Protection Zone 1, as part of the risk based approach the Environment Agency only comment on the risks posed by developments to SPZs where a potentially polluting activity is being proposed, or where the development site is potentially affected by contamination from a previous use.
- 5.15 **Southern Water: Comment**
Southern Water cannot accommodate the needs of the development without the provision of additional local infrastructure. The proposed development would increase flows into the foul and surface water system and therefore increase the risk of flooding, contrary to paragraph 109 of the NPPF. Alternatively, the developer can discharge foul and surface water flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the foul and surface water system. Should the Local Planning Authority be minded to approve the application, Southern Water would like the following condition to be attached to any planning permission:
"Development shall not commence until a drainage strategy detailing the proposed means of foul and surface water disposal and an implementation timetable, has been submitted to and approved in writing by the local planning authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable." And the following informative: "The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk in order to progress the required infrastructure.
- 5.16 **Sussex Police Comment**
Pleased to note that the Design and Access Statement submitted in support of the application gave mention to the crime prevention measures to be incorporated into the design and layout which include; adopting Secured by Design principles and Designing Out Crime measures. From a crime prevention perspective, the only recommendation for this development would be to increase the secure boundaries to include a controlled vehicle entry system,

electronic gates. The addition of this measure would completely secure the development. McCarthy and Stone are a well-established national provider of retired and assisted living accommodation. Does not have any concerns regarding this development.

5.17 **Internal**

5.18 **City Regeneration: Comment**

City Regeneration has no adverse comments to make regarding this application.

5.19 The provision of 44 (39 actual net gain) Assisted Living dwellings is welcomed in the city which has an ever increasing ageing population.

5.20 The indicated 17 FTE opportunities created by this scheme are also welcomed and will contribute to the economic wellbeing of the city.

5.21 Should the application be approved, an Employment and Training Strategy will be required, with the developer committing to using an agreed percentage of local labour. It is proposed for this development that the minimum percentage of 20% local employment is expected for the demolition (where appropriate) and construction phases of the development.

5.22 In respect of the training commitment, industry guidelines (CITB) for KPIs based on the value of the development should be referenced.

5.23 Early contact with the council's Local Employment Scheme Co-ordinator is recommended to progress the Employment and Training Strategy, in order to avoid any delays in the planned commencement of the development.

5.24 Also, if approved, in accordance with the Developer Contributions Technical Guidance, City Regeneration requests a contribution through a S106 agreement for the payment of £11,700 towards the council's Local Employment Scheme.

5.25 **Environmental Health: Comment**

There is a concern over the lack of information relating to plant and machinery for the proposed kitchen. Within the design and access statement it is mentioned that there will be a professional extract system, but no further mention is made to the equipment that will be put in place, or the exact design. Such equipment will have odour and noise implications, and its design will need to be considered to ensure that it is not an issue to proposed residents. Usually to combat odour issues, flues extract from a high location above the eaves of nearby buildings. This potentially will involve running ducting through the internal layout or on the facade of the premises both of which impact the design. Alternatively the kitchen could be vented directly out the wall, but this would likely require significant odour mitigation due to resident directly above.

5.26 BS 8233:2014 states that special attention should be given to internal layout in order to minimise noise disturbance. This involves trying to ensure services, stairs and lifts are associated away from residential rooms, especially bedrooms where possible. It can be seen that some effort has been made with regards to internal layout (e.g. rooms between lift shafts and residents' rooms) but there

are still issues that need attention. Of prime concern would be residents located above the two refuse storage areas, both the main one for the building and the kitchen refuse area. While the use of the refuse areas will be intermittent and of short duration, both the collection and disposal of waste, especially glass, can create significant noise levels. Environmental Health receives a number of complaints regarding waste disposal and collections around the city, and therefore increased sound insulation is likely necessary at these locations in order to protect future residents. It is also likely that times for deliveries and collection will need to be restricted.

- 5.27 An additional concern for the residents above the main refuse storage is the close proximity of the sub-station which also has the potential to have tonal noise issues, and potentially vibration issues associated with its operation. These will need to be considered, and appropriate protection put in place if needed.
- 5.28 There would also be a concern about residents above the function room, kitchen, restaurant and main living room. All of these areas are likely to receive a high level of use, and the Lombard effect is likely to take place. The Lombard effect is the involuntary tendency of speakers to increase their vocal effort when speaking in a loud noise environment, in order to enhance the audibility of their voice. This change includes not only loudness, but also other acoustic features such as pitch, rate, and duration of syllables. It is therefore important that these rooms are given a high level of sound insulation in order to protect future residents that will adjoin them.
- 5.29 Lastly there is concern relating to the placement of bedrooms next to stair cases and plant rooms. It is currently unknown what plant is proposed in the plant room, so it is very difficult to make a suggestion about the level of sound insulation that will be needed.
- 5.30 While none of the above issues raised by Environmental Health are insurmountable, they should be considered before the application proceeds. While a number of conditions could be placed regarding the various noise and odour issues, there is a lack of information relating to acoustic matters at this moment in time. It is also considered appropriate to look at the sound insulation levels and room placement at this stage, before the overall design is finalised.
- 5.31 A contaminated land report was submitted with this application by Crossfield Consulting Geotechnical Consultants (ref: CCL02731.BY83), dated August 2015. The main objective of the report was to consider geo-technical constrains with regards to construction. While it does look at possible contamination, it shows there is very few potential sources for contamination in the nearby area, and that the risk to any future development is therefore considered very low. This conforms to information held by Environmental Health, and it is agreed that no further works would be needed with regards to potential contamination.
- 5.32 In summary, there is insufficient information relating to noise and odour concerns, in order to make informed comments at this stage. Should further information be submitted, these comments can be revisited.

5.33 Health and Adult Social Care Comment

BHCC have a known under supply of accommodation for older people with care needs in the city. BHCC business case in 2015 identified a shortfall in ECH provision in Brighton and Hove of between 380 and 1100 additional ECH places from now until 2025 currently one scheme consisting of 45 flats is being developed for people with dementia. We know that housing and care in the community is generally preferred by people rather than traditional care homes. As of March 2014 Brighton and Hove placed 179 residents over the age of 65 in care homes outside of the city.

5.34 The council is committed to providing alternative cost effective housing options to enable people to live independently with dignity in their own home in a supported environment and one that enhances their quality of life and this includes developing alternative solutions for vulnerable adults with differing care and support needs.

The council values extra care as preventative services that delay the need for residential or nursing home placement.

5.35 We would value a different range of tenancies and care that is both private and publicly funded

We value that extra care schemes ensure priority is given to the local population

We value that extra care schemes provide 40% affordable housing

For this scheme:

- Would query if/how priority is given to the local population
- Would query if it provides the required % of affordable housing. How would housing related support tasks be supported?
- Does it have scheme manager on site?
- Does it provide support with tenancy sustainment?
- Will tenants be able to choose their care provider?
- Will assessments for care needs involve linking residents with the wider community?
- Will all accessing care services on site have a Brighton and Hove Eligibility assessment from Adult Social Care to promote clarity and choice?

5.36 Heritage: Comment

The Heritage Officer identified the heritage assets in the vicinity as follows:

- Patcham House School (flint building), Old London Road
- Patcham Peace Gardens, Old London Road
- Patcham Conservation Area, which contains a number of listed buildings

These are not identified in the Heritage Statement or Planning Statement.

The Heritage Officer does not however feel that the impact is sufficient to require a specific heritage comment.

5.37 Housing: Comment

The Housing Officer advised that the affordable housing could be provided as an off-site contribution. The CP20 policy requirement of 40% affordable housing (of 39 net units) equates to 16 flats (15.6 rounded up) and the size split in the scheme is 50% one beds and 50% 2 beds which equates to a total of £2,282,000.00 as calculated below.

Zone 2	1 bed flat	2 bed flat	
Per unit	£120,750	£164,500	
No units	8	8	16
Totals	£966,000.00	£1,316,600.00	£2,282,000.00

5.38 Planning Policy: Comment

The application description is queried because the proposed use class is not considered accurate. The proposal clearly seeks individual residential units albeit with ancillary facilities. It seeks to provide 'dwellings' (C3) rather than a 'residential institution' (C2)(The supporting information indicates that residents of the proposed accommodation are less likely to enter 'institutional' accommodation.) The proposed assisted living/extra care sheltered housing is considered more akin to C3 because as detailed in the submission, unlike a C2 residential care home/institution, the proposed residents' level of care will vary (potentially not just based on need but also a residents ability to afford to buy-in the 'extra' care on top of what the basic sheltered housing package provides). Each unit will consist of no more than six residents living together as a single household where care is provided for residents and all units are capable of being self-sufficient (ie bedroom, kitchen, living area and bathroom). Sheltered housing is widely recognised to be C3 (i.e. land use gazetteer) and extra care housing is referenced in the adopted City Plan policy CP19 which relates to 'housing mix'.

5.39 Irrespective of the use class (whether it be C2, C3 or sui generis) it is considered the type of provision proposed should be considered against and comply with policies relating to housing/dwellings. The following comments are provided on the basis that 44 'dwellings' are proposed.

5.40 The site lies within the built up area and part of the site is covered by an Area Tree Preservation Order (TPO), so compliance with QD15 and QD16 will be subject to other consultee comments (eg Arboricultural Team).

5.41 Policy CP10 seeks a net gain in biodiversity. The proposed provision of bat and bird boxes is welcomed.

5.42 The site lies within a groundwater source protection zone and an area with a history of surface water flooding.

5.43 Housing Type and Mix:
Policy CP14 of the City Plan Part One states that residential development will be permitted at higher densities than those typically found in the locality where a number of criteria are met. The proposed scheme significantly increases the housing density from that already on the site (approximately 11 units per hectare to 95 units per hectare). The proposal therefore needs to meet the

criteria listed. Whilst a number will depend upon on-site considerations a few relate 'policy' matters and require the inclusion a mix of dwelling types, tenures and sizes that reflect identified local needs and the provision of outdoor recreation space appropriate to the demand it generates. The ability to meet the requirements of policies SA6, CP20, CP16, CP17 and CP19 of the City Plan Part One is therefore important.

- 5.44 The provision of sheltered/managed/extra care housing is supported by policies HO12 of the Local Plan and CP19 of City Plan Part One. HO12 welcomes sheltered and managed housing for older people that is located close to local amenities and seeks the provision of an element of affordable housing, which may not necessarily be for the same type of clientele. CP19 seeks to improve housing choice and ensure that an appropriate mix of housing is achieved across the city and specifically references extra care housing. The supporting text of CP19 identifies the need for a range of housing options suitable for the elderly and disabled, which this proposal will contribute to. Regard to the Housing Strategy 2015 should be given.
- 5.45 Affordable Housing:
As this is a windfall housing site, Policy CP20 of the City Plan Part One applies. This seeks to secure 40% affordable housing on sites proposing 15 or more (net) dwellings. This equates to a need to provide 16 affordable units (rounded up). The proposed scheme does not appear to provide any affordable dwellings. Subject to other relevant consultee comments it is considered that in view of the type and level of residential provision proposed that some flexibility in this provision may be appropriate. On this basis it may therefore be appropriate to accept a financial contribution towards off-site affordable housing provision in place of on-site provision in this particular instance.
- 5.46 Open Space and Sport
Policy SA6 promotes sustainable neighbourhoods and seeks balanced communities through the requirement for new residential development to provide an appropriate amount of affordable housing, mix of dwelling sizes and tenure types. It also promotes food growing, physical activity, sports and biodiversity and provision of open space. Policy CP18 relates to 'Healthy City' and seeks to reduce health inequalities and promotes healthier lifestyles. Lifetime Neighbourhoods are encouraged and recognition is given to active living for all age groups including healthy living options for older people.
- 5.47 Policies CP16 and CP17 of the City Plan Part One set out the local open space standards and make clear no over-supply has been identified. All new development is required to provide open space commensurate to the demand generated by the proposal. It is recognised a proposal only open to people over 70 years old will not generate a significant demand for children's play space and thus the provision of children's equipped play space would not be required. However, as reflected in the supporting information, the type of provision proposed enables residents to maintain an active life and that more than half of residents in sheltered housing consider their health to be good. It is therefore considered provision commensurate to the generated demand should be provided for allotments, natural semi-natural space, amenity greenspace,

outdoor sport (eg bowls, croquet, tennis) and, parks and gardens. Where this is not provided on site a financial contribution should be provided in lieu. An open space and sport ready reckoner has been attached based on net residential units. It indicates that a contribution of £93,246 should be provided to address provision off-site, it includes £14,798 for indoor sport (eg swimming, badminton, short mat bowls etc.)

5.48 Private amenity space:

Policy HO5 seeks the provision of useable private (outdoor) amenity space (for example space for a table and two chairs turning space for a wheelchair). Within a new build scheme it is considered all units should have access to a useable private patio or balcony. Whilst it is noted the proposal includes a communal landscaped garden; providing health benefits from having access to sunlight (vitamin D), green space and social interaction; this may not be attractive to residents recuperating from illness etc.

5.49 Lifetime homes and sustainability:

The application indicates the proposal will meet the lifetime homes standards and will be fully accessible for wheelchairs exceeding the requirements of policy HO13 and will meet the sustainability requirements set out in policy CP8. This indicated provision is welcomed. It is unclear if a 200mm threshold level as indicated in the groundwater flooding recommendations is being proposed however if this is via a sloping rise this should not conflict with HO13.

5.50 Waste Management:

Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction demolition and excavation. It states that all development proposals will be expected to:

- a) Demonstrate how the durability of the construction has been maximised;
- b) Minimise the waste arising from construction, demolition and excavation activities;
- c) Move the management of CDEW waste as far up the waste hierarchy as practicable;
- d) Demonstrate how they will monitor progress within the lifetime of the construction phase of the development.

5.51 Paragraph 49 of the National Planning Practice Guidance provides guidance on what could be covered in the SWMP in order to meet the requirements of the policy. A fully completed SWMP with sufficient information to demonstrate compliance with Policy WMP3d is required, this could be by condition. Policy WMP3e of the WMP requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities.

5.52 Water and Sewage Disposal Infrastructure:

Compliance with policies SU3, SU5, SU9 and CP11 will be subject to other consultee comments (eg Southern Water and Environment Agency)

5.53 Developer Contributions:

Subject to other consultee comments and in accordance with policy CP7, it is considered that developer contributions would be necessary to address a number of outstanding issues including the following :

- Affordable housing
- Transport and travel
- Biodiversity, open space and sport provision (ready reckoner supplied separately)
- Local employment and training

5.54 The Open Space and Indoor Sport contribution as calculated using the ready reckoner amounts to £93,245.95. However, it is considered that the play space provision should be discounted (£2,378.97) given the intended occupiers of the development, and no allotment projects have been identified in the local area, (a further reduction of £3,229.89), therefore a contribution of **£87,637.09** is requested.

5.55 The Parks Projects team consider the Open Space element (£72,839.09) of the financial contribution would potentially go towards improvements to Mackie Park, Withdean Park, Barn Rise playground, Patcham Peace Garden, Patcham Place, Horsdean Recreational Ground, and Braeside Linear Parks. The contribution would be spent as follows:

- Amenity Green Space (£2,640.85): Increase grass areas by rationalising disused ornamental borders, add seating to the edge of grass areas, additional bulb planting to grass areas, improve grassed surfaces to allow longer use through the year.
- Outdoor sports facilities (£22,504.59): Increase the capacity of games being played by improvements to grass pitch surfaces, install outdoor gym equipment area.
- Parks and Gardens (£32,937.93): Improve access by: improving gates, paths being widened, new formal paths built on desire lines, handrails etc., increase the seating areas and the provision of benches around the parks, improve entrances generally for access, signage, interpretation in varying media, gates, levels and lighting.
- Natural and Semi-Natural (£14,755.72): Increase elm collection planting across the parks and streetscape in line with requirements for our national Elm collection. Increase tree planting generally and install a range features to increase habitats for creatures.

5.56 The Indoor Sports element (£14,798.00) would potentially go towards the Withdean Sports Complex for new or replacement changing rooms for outdoor activities, or for conversion of the void area into additional gym or exercise space, and/or towards the Prince Regent Swimming Complex (nearest and most accessible swimming pool site on No 5 bus route) for the creation of new activity areas by converting redundant or underused rooms.

5.57 **Policy, Projects and Heritage:** Comment

Adopted City Plan Policy CP5 supports investment in public realm spaces suitable for outdoor events and cultural activities and the enhancement and

retention of existing public art works; CP7 seeks development to contribute to necessary social, environmental and physical infrastructure including public art and public realm; and CP13 seeks to improve the quality and legibility of the city's public realm by incorporating an appropriate and integral public art element. To safeguard the implementation of these policies, it is important that instances in which approval/sign off from the council is needed is clearly identified and secured.

5.58 The level of contribution is arrived at after the internal gross area of the development (in this instance approximately 4514 sqm) is multiplied by a baseline value per square metre of construction arrived at from past records of Artistic Component contributions for this type of development in this area. This includes average construction values taking into account relative infrastructure costs. It is suggested that the Artistic Component element for this application is to the value of £25,000. As ever, the final contribution will be a matter for the case officer to test against requirements for s106 contributions for the whole development in relation to other identified contributions which may be necessary. To make sure that the requirements of Policies CP5, CP7 and CP13 are met at implementation stage, it is recommended that an Artistic Component schedule be included in the section 106 agreement.

5.59 **Sustainability: Comment**

The scheme proposes New Assisted Living Apartments. It includes communal areas, heated corridors; staff rest and overnight stay facilities and accommodation, communal restaurant, function room, communal laundry, homeowners lounge, guest suite, wellbeing suite. These uses are not purely residential and therefore come under the criteria on non-residential development. As a major scheme City Plan Policy CP8 sets a minimum standard of BREEAM 'excellent' standard for new build major non-residential development. As part of this assessment, the BREEAM Multi Residential criteria will be applied.

5.60 The application documents do not refer to a target of BREEAM 'excellent' and no justification has been submitted to justify achieving a reduced or alternative standard. It is recommended that the applicant be asked to commit to achieving a BREEAM 'excellent' standard or provide robust justification for a reduced standard. In the event that this commitment cannot be gained ahead of planning committee due to time constraints, planning conditions should be applied requiring a BREEAM New Construction design stage certificate at pre commencement stage, and a final BREEAM New Construction certificate pre occupation, demonstrating in each case that an 'excellent' standard has been achieved. The pre-commencement certificate is required in this case specifically because a BREEAM pre-assessment has not been undertaken, and if preparatory work is not undertaken at early stages for the BREEAM assessment, the 'excellent' standard will be less cost effective for the developer and harder to achieve.

5.61 In addition, the scheme has not addressed the following City Plan Policy CP8 areas, and would be improved by further consideration of; Passive design

measures; green walls or roofs; proposals for rain water catchment; provision for food growing; wildlife habitat creation; provision for on-site composting.

5.62 It is recommended that the following conditions be applied:

- BREEAM New Construction design stage certificate at pre commencement stage, demonstrating an 'excellent' standard, and
- BREEAM New Construction final certificate pre occupation, demonstrating an 'excellent' standard

5.63 **Sustainable Drainage: Object**

The key applicable policies are the Local Flood Risk Management Strategy , National Planning Policy Framework, Strategic Flood Risk Assessment Surface Water Management Plan, City Plan SS1 and CP11.

5.64 The Lead Local Flood Authority (LLFA) objects in principle to the development. Brighton and Hove City Council became the Lead Local Flood Authority in 2010 as per the Flood and Water Management Act. As such the LLFA BHCC are responsible for managing local flood risk in the city. Local flood risk, as defined by the FWMA 2010, includes surface water and groundwater.

5.65 Old London Road, Patcham is within the historic flood plain for groundwater. The proposed development is within this flood plain. The dates of groundwater flooding include 1918, 1925, 1958, 1960, 1962, 1974, 1988, 1994, 1995, 2000, 2001, 2013, 2014. The nature of groundwater flooding can be slow to rise, however floodwaters can remain for long periods of time. Reports describe in 1958 that the fire brigade continually pumped for a year. These conditions cause stress and anxiety for residents.

5.66 As set out in the National Planning Policy Framework, inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. "Flood risk" means risk from all sources of flooding - including from rivers and the sea, directly from rainfall on the ground surface and rising groundwater, overwhelmed sewers and drainage systems, and from reservoirs, canals and lakes and other artificial sources.

5.67 Section 1.6 of the submitted Flood Risk Assessment confirms the proposed development for assisted living apartments for older persons, is a "more vulnerable development". A more vulnerable development is defined by the NPPF Technical Guide as residential institutions such as residential care homes, children's homes, social services homes, prisons and hostels.

5.68 There is a history of residents suffering from anxiety and distress, especially the elderly, during a groundwater event. This was notable in the 2014 event.

5.69 The LLFA note from the Flood Risk Assessment (ref 047.5052 FRA3, dated May 2016) that the finished floor levels of the new development will raise thresholds by 200mm; however the LLFA does not consider this to be adequate. The risk to this area from groundwater is high. There is a history of groundwater flooding. NPPF states that "Inappropriate development in areas at risk of

flooding should be avoided by directing development away from areas at highest risk". It is not appropriate to place a "more vulnerable" development at this location.

- 5.70 Groundwater flooding is difficult to prevent, the best that can be done in Patcham is to manage the risk in the area. The LLFA note the applicants' email to the Local Planning Authority of 12/10/2016 regarding their proposals for a Flood Risk Management Plan through a 'stay put' policy not evacuation. However, as noted above, groundwater flooding can remain for months after rising. A "stay put" policy is not feasible in this type of event.
- 5.71 Considering the information provided by Southern Water (dated 6/11/2015 & Section 5.25 Residential Redevelopment Land at Old London Road, Patcham, East Sussex Flood Risk Assessment, May 2016) that the existing system is currently of inadequate capacity, the LLFA will require reduction in surface water discharge rate, as per the recommendations of the Strategic Flood Risk Assessment 2012.
- 5.72 The information provided regarding the proposed drainage system is not adequate, considering the risk of groundwater emergence and the inadequate capacity of the sewer system. The applicant has put forward some proposals but has noted that this are the surface water strategy outlined above may not necessarily form the final design (5.19). Considering the vulnerabilities of the site the LLFA would require the applicant to submit a detailed design of the proposed drainage and associated maintenance plan. It would need to consider, as a minimum;
1. Inadequate capacity of the surface water sewer;
 2. How the drainage would cope with rising groundwater; and
 3. How the system would be maintained for the lifetime of the development.
- 5.73 The Flood Risk Management Officer's recommendation is to refuse the application.
- 5.74 **Sustainable Transport:** Comment
In summary, subject to the necessary conditions, the Highway Authority would recommend approval. It is also recommended that a S106 contribution of £29,550 be secured which should also include a S278 clause in order to secure the highway works proposed.
- 5.75 Pedestrian access would be similar to the existing properties with no footway provided along the east side of Old London Road, though expected demand will increase substantially compared to present. Ideally from a pedestrian accessibility perspective, a new footway would be constructed in order to connect the development site directly to the shops and amenities to the north. However, it is considered that the proposed dedicated pedestrian access and associated crossing on Old London Road would help to mitigate the current deficiencies in the site's accessibility by foot and for mobility impaired users.

- 5.76 The submitted Transport Statement includes plans for the crossing proposals together with a Road Safety Audit and Designer's Response. The Safety Audit identifies a potential issue with inter-visibility between pedestrians being obstructed by parked cars. The Highway Authority is also concerned that this would be an issue and in this case does not accept the Designer's Response which cites the reference in Manual for Streets paragraph 7.8.5 that some encroachment of parking in visibility splays may be acceptable. Whilst this would be applicable in many instances such as a vehicle access, it is not considered to be ideal for the current proposal where the pedestrian crossing is likely to be used by more vulnerable users given the nature of the proposed development.
- 5.77 The above concern would however be overcome through the provision of a buildout on the western side. This would keep the crossing clear of obstructions and improve visibility. The eastern (development) side proposals would be acceptable in principle; however, in order to provide convenient, level access to southbound bus services, it is recommended that an accessible bus stop kerb also be located on the proposed area of footway, extending this as necessary.
- 5.78 As it stands, the existing access to southbound services would not be practical for future users of the development given the need to cross three times and the absence of an accessible kerb. This is particularly so for mobility impaired users which are likely to include a proportion of residents of the proposed development.
- 5.79 The proposed crossing and associated build-out would need to be located so it is next to the existing school keep clear markings. The bus stop would preferably be located so that users are not encouraged to step out from behind a stationary bus (i.e. the crossing is to the south of the accessible kerb). Some of the submitted visualisations appear to include a footway between the proposed vehicle and pedestrian access (removing the current grass verge), although this does not appear to be indicated on the Site Plan or Highway Works plan included within the Transport Statement. As noted above, the Highway Authority would see benefit in extending the footway to the north to connect with Ladies Mile Road. However, in the absence of this the need for the proposed footway is unclear. The Highway Authority would therefore not object to its removal as it is understood the case officer has proposed in order to preserve the grass verge. It is also noted that the removal of two of the three existing vehicle crossovers will also provide some compensation for the loss of verge elsewhere to accommodate the necessary pedestrian access and bus stop.
- 5.80 It is recommended that the works be secured via a S106 agreement and detailed by a S278 agreement.
- 5.81 Vehicle access will be provided by a single point. The access is approximately 4.4m at its narrowest point, providing sufficient space for two vehicles to pass. It is possible for vehicles to enter and exit in forward gear though there would be benefit in a turning area at the end of the car park in the event vehicles enter to find that it is full.

- 5.82 The existing accesses will become redundant. Therefore, the kerb and grass verge should be reinstated at the applicant's expense and it is recommended that this be secured as part of the S278 highway works agreement.
- 5.83 SPD14 does not provide a specific standard for assisted living or sheltered housing. However, given the nature of the development proposed, the standard for residential institutions is considered to be most appropriate in this instance.
- 1 space per 8 residents: 44 units = 6 spaces
 - 1 space per 3 staff: 17 FTE staff= 6 spaces

 - Total = 12 spaces
- 5.84 The independent living nature of the proposed accommodation and the submission of information on car ownership at similar sites is however noted. The applicant suggests that forecast demand would be 18 spaces and by this measure sufficient provision would be proposed without adding substantially to on-street parking demand. It is not considered that the proposals as they stand would result in a level of overspill parking that could be deemed to amount to a severe impact on the highway and therefore warrant refusal on these grounds under the National Planning Policy Framework (NPPF).
- 5.85 SPD14 would require a minimum of 3 disabled bays. No spaces are currently proposed which is not appropriate, especially for a use of this nature. It is recommended that these be secured by condition, though it is noted that there would be a slight reduction in the level of provision as a result. The layout of disabled parking should comply with the Department for Transport's (DfT) Traffic Advisory Leaflet 5/95 which requires a 1.2m access zone on either side.
- 5.86 SPD14 requires one cycle parking space per five staff plus one per ten beds for visitors, equivalent to 8 spaces for the proposed development. Whilst a mobility scooter store is shown, which the Transport Statement indicates will also provide for bikes, no further details on the design appear to have been submitted. It is recommended that these details be secured by condition. In order to comply with Brighton & Hove Local Plan policy TR14, cycle parking should be secure, convenient to access and, wherever possible, covered. The Highway Authority's preference is for the use of Sheffield stands laid out in accordance with Manual for Streets paragraph 8.2.22.
- 5.87 There is no on-site provision for servicing. The Highway Authority does not raise any objections in this respect given that the frequencies are expected to be limited and typically undertaken by smaller vehicles. The collection of refuse from the public highway is consistent with the existing arrangement.
- 5.88 The applicant has submitted a trip generation exercise using the TRICS national trip rate database. They have also submitted a sensitivity analysis based on surveys from the agent's own database. Many of the latter are at locations where public transport accessibility would be expected to be lower than at the proposed site meaning it is reasonable to expect that vehicle movements would

not exceed those estimated. The applicant's Transport Consultant has also used the higher TRICS rates for the basis of their assessment.

- 5.89 This indicates that there will be a modest increase in peak vehicle movements and approximately 92 across the day. However, when assessing the impact of proposed developments upon local highway and transportation networks, the Highway Authority considers total person trips and not just vehicle trips. The submitted TRICS data indicates a daily person trip rate of 5.387 per unit which would equate to 237 for the proposed development. Inputting this into the council's standard contributions formula, the following sustainable transport contribution would be sought:

$$\begin{aligned} & (\text{Forecast trips} - \text{existing trips}) \times \text{contribution per trip} \times \text{location-based deduction} \\ & = (237 - (10 \times 4)) \times \text{£}200 \times 0.75 \\ & = 197 \times \text{£}200 \times 0.75 \\ & = \text{£}29,550 \end{aligned}$$

- 5.90 In order to encourage sustainable travel to and from the development in accordance with the City Plan Part One it is recommended that this be allocated towards:

- Shelter and/or real time information at Audrey Close northbound and/or southbound bus stops on Old London Road and/or
- Pedestrian route and crossing improvements on Old London Road.

- 5.91 This is in order to provide for the needs of those accessing the site on foot and by public transport and to encourage sustainable modes of travel in accordance with Brighton & Hove City Plan Part One policy CP9. In addition, a Travel Plan focussed on staff travel is sought in accordance with policy TR4 of the Brighton & Hove Local Plan. The Highway Authority would also recommend that a Construction Environment Management Plan (CEMP) be secured by condition.

5.92 **Tree Officer Object**

The TPO on this site (1971-16) is in two parts and rather strangely on both sides of the London Road. The bulk of the trees are at number 11 Old London Road with just one tree shown in the front garden of number 54. This tree (T1) was granted consent to fell back in 1984. Despite repeated attempts in 1984 and 1985 to secure a replacement planting this appears to have never been achieved.

- 5.93 The gardens forming this proposed development site are typical of many in the City's upper, London Road valley area in that they are of a good size with a mix of mainly small to medium sized trees. Individually these trees are not high quality specimens but collectively they provide much needed tree cover to local residents. The trees do not warrant protection with a Tree Preservation Order as they are of only moderate public amenity value.

- 5.94 The proposal involves considerable felling to make way for the building, access road and car parking. Much of the greenery along the frontage would be lost

and this would be detrimental to the local street scene and the character of the area. Some trees are shown to be retained alongside car parking areas but there is little information provided to show how this will be achieved. There is also potential for conflict with future occupants who may feel threatened by these trees or agitated by leaf fall and minor issues around aphids and detritus dropping onto cars.

- 5.95 The proposal leaves limited space to secure tree planting of a large final size. The car parking area appears to dominate much of the site with the three bays at the frontage being very visually obtrusive to the scheme. Reducing the car parking provision, removing bays closest to retained trees and detailing how the car park would be constructed to avoid damage to tree roots would allay some fears and these changes may be negotiable. Also much of the existing frontage hedge and other vegetation could be retained and incorporated into a final landscaping plan provided it was properly protected through the construction phase. However, as it stands the Arboricultural Section has a number of concerns with the proposals in this planning application and recommends that it is refused, based on retained Local Plan policy QD16 and SPG06.

6. MATERIAL CONSIDERATIONS

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
The development plan is:

Brighton & Hove City Plan Part One (adopted March 2016)
Brighton & Hove Local Plan 2005 (retained policies March 2016);
East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

- 6.2 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
SA6 Sustainable Neighbourhoods
CP1 Housing delivery
CP2 Sustainable economic development
CP5 Culture and Tourism
CP7 Infrastructure and developer contributions

CP8 Sustainable buildings
CP9 Sustainable transport
CP10 Biodiversity
CP11 Flood risk
CP12 Urban design
CP13 Public streets and spaces
CP14 Housing density
CP15 Heritage
CP16 Open space
CP17 Sports provision
CP18 Healthy city
CP19 Housing mix
CP20 Affordable housing

Brighton and Hove Local Plan (retained policies March 2016):

TR4 Travel plans
TR7 Safe Development
TR14 Cycle access and parking
SU5 Surface water and foul sewage disposal infrastructure
SU9 Pollution and nuisance control
SU10 Noise Nuisance
QD5 Design - street frontages
QD14 Extensions and alterations
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species protection
QD27 Protection of amenity
HO5 Provision of private amenity space in residential development
HO12 Sheltered and Managed Housing for Older People
HO13 Accessible housing and lifetime homes
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste
SPD06 Trees & Development Sites
SPD11 Nature Conservation & Development
SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the impact of the development on the surrounding residential properties, the impact of the development on the character and appearance of the street scene, the proposed use of the development and the need for affordable housing provision and financial contributions in mitigation of the development, the flood risk potential at the site, and the level of amenity provided to the prospective residents.

8.2 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It

is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.

8.3 Need for Extra Care/Assisted Living Accommodation:

The Lead Member for Adult Social Care at BHCC commented that there is a known under-supply of accommodation for older people with care needs in the city. The Brighton and Hove City Council's business case in 2015 identified a shortfall in extra care housing provision of between 380 and 1100 additional places from now until 2025. Housing and care in the community is generally preferred by residents rather than traditional care homes.

8.4 The Council's Policy Officer advises that the provision of sheltered/managed/extra care housing is supported by policies HO12 of the Local Plan and CP19 of City Plan Part One. HO12 welcomes sheltered and managed housing for older people that is located close to local amenities. CP19 seeks to improve housing choice and ensure that an appropriate mix of housing is achieved across the city and specifically references extra care housing. The supporting text of CP19 identifies the need for a range of housing options suitable for the elderly and disabled, which this proposal will contribute to.

8.5 As such it is considered that there is a need for the accommodation hereby proposed in Brighton & Hove.

8.6 And therefore the Health and Adult Social Care Officer asked that priority is given to the local population when considering potential occupiers of the development. This could be secured through the s106 agreement.

8.7 Affordable Housing

Retained Local Plan policy HO12 seeks the provision of an element of affordable housing, which may not necessarily be for the same type of clientele. The supporting text to the policy states that there is a particular need for affordable accommodation in this sector and the policy seeks to establish the provision of an element of affordable housing as an integral part of all new sheltered and managed housing schemes for elderly people. City Plan policy CP19 seeks to improve housing choice and ensure that an appropriate mix of housing is achieved across the city and specifically references extra care housing. Part c of the policy states that sites coming forward as 'windfall' development, as in this case, will be required to demonstrate that proposals have had regard to housing mix considerations and have been informed by local assessments of housing demand and need. Policy SA6 (part 8) seeks to deliver balanced communities through the requirement for new residential development to provide an appropriate amount of affordable housing, and a mix of dwelling sizes and tenure types.

- 8.8 The Health and Adult Social Care Officer advised that a different range of tenancies and care that is both private and publicly funded would be preferred and requested that extra care schemes provide 40% affordable housing, given the identified need for affordable housing for the elderly in Brighton & Hove.
- 8.9 The Policy Officer questions the use class of the proposed development. The applicant considers the development to be a C2 use, however the Policy Officer considers the development to be more akin to 'dwellinghouses' (C3 use) rather than a 'residential institution' (C2). Irrespective of the use class (whether it be C2, C3 or sui generis) it is considered the accommodation proposed should be considered against and comply with policies relating to housing/dwellings.
- 8.10 As such, the Policy Officer considers policy CP20 to apply to the proposed development, and seeks 40% affordable housing, which is considered can be provided as a commuted sum. The supporting text to policy CP20 states that financial contributions will be pooled and used to enable affordable housing provision within the City. The Housing Strategy Officer calculated the commuted sum to amount to £2,282,000.00.
- 8.11 However, the applicant has not offered any affordable housing and contrary to reference to a viability assessment in the submitted Planning Statement, no viability assessment has been submitted in relation to this application. Therefore, the application is contrary to saved Local Plan policy HO12, and City Plan Part One policies SA6, CP7, CP19 and CP20, and should be refused on this basis.

8.12 **Other Developer Contributions:**

Developer Contributions have been requested by Officers during the application process, for:

- Open Space and Indoor Sport - contribution of £87,637.09
- Affordable Housing - off-site contribution of £2,282,000.00
- Sustainable Transport - contribution of £29,550 and s278 clause
- Artistic Component - to a value of £25,000.
- Local Employment and Training - contribution of £11,700

Which are set out in the responses above.

- 8.13 However, the applicant has not agreed to offer any contributions and no viability assessment has been submitted. On this basis, it is considered that the development would be contrary to the NPPF and policies SA6, CP2, CP5, CP7, CP9, CP13, CP16, CP17, CP18, CP19 and of Brighton & Hove's City Plan and policy HO12 of the saved Local Plan, and the application should be refused on this basis.

8.14 **Design and Appearance:**

The roof design, with the cut-outs along the frontage and the combination of pitched and flat roofs and gables would result in a complicated and contrived roof design. Most of the neighbouring properties have pitched roofs and some

have gables and are simple and conventional designs. The combination of the 'false pitched' roofs and flat roof would be apparent from the neighbouring properties and from Old London Road to the north of the site.

- 8.15 It is considered that the size of the building's footprint and the length and depth of the building is the cause of the problems with the roof design. The two previous schemes at this site (set out above) were refused, in part due to the size, height and massing of the development. These two schemes had fully hipped roofs (with a small flat roof section on the top), and this scheme reduces the overall height by using a flat roof at the rear and a 'false-pitched' roof at the front. The lower roof height causes problems with the proportions of the building, so that cut-outs have been introduced to help visually break up the length of the ridge and reduce the horizontal emphasis of the building.
- 8.16 During the course of the application the applicant was invited to amend the roof design. Sketches were informally submitted that removed the cut-outs and lowered the ridge level. However, the sketches were not considered to improve the design as the frontage still presented as excessively long and did not reduce the over-bearing impact of the building. These sketches were therefore not worked up into amended plans.
- 8.17 The length of the frontage is substantially longer than other buildings nearby and is considered to result in an overbearing and poorly proportioned building. The two gables add interest to the frontage and help to add vertical emphasis and visually break up the frontage but are not sufficient to overcome the problems with the excessively long frontage and the complicated and contrived roof design.
- 8.18 The proposed external materials consist of red brick and white painted render on the walls and grey slate roof tiles, and white uPvc window and door frames and fascias. The combination of red brick and white painted render does help to visually break up the frontage and there are many examples of red brick on other nearby properties. However, white painted render is not prevalent in the area and is likely to weather quickly and require regular maintenance. It is considered that a more appropriate alternative material would be flint, which is more durable and other buildings nearby have flint walls, in combination with red brick. The use of slate tiles on the roof would not be in keeping with the local area, where the vast majority of the buildings have clay tiled roofs. The use of white uPvc on the window and door frames and fascias would further detract from the appearance of the building and from the character of the street scene.
- 8.19 Policy CP14 of the City Plan Part One states that residential development will be permitted at higher densities than those typically found in the locality where a number of criteria are met. The proposed scheme significantly increases the housing density from that already on the site (approximately 11 units per hectare to 95 units per hectare). The proposal therefore needs to meet the criteria listed:
- 1) Would be of a high standard of design and would help to maintain or create a coherent townscape;

- 2) Would respect, reinforce or repair the character of the neighbourhood and contribute positively to its sense of place;
- 3) Would include a mix of dwelling types, tenures and sizes that reflect identified local needs;
- 4) Is easily accessible by sustainable transport or has the potential to be easily accessible;
- 5) Is well served by local services and community facilities; and
- 6) Provides for outdoor recreation space appropriate to the demand it would generate and contributes towards the 'green network' where an identified gap exists.

8.20 It is considered that the proposed development fails on points 1, 2, 3, and 6 and therefore would not comply with policy CP14.

8.21 The roof design, combined with the excessive length of the frontage and excessive site coverage and inappropriate external materials, are considered to result in an overbearing development, out of keeping with and detrimental to the character and appearance of the street scene.

8.22 Landscaping

The existing character of the area is suburban and predominantly residential, with well-vegetated plots. To the south and east of the site are detached houses or bungalows set in substantial plots; to the north are 3 storey flats that are partially screened from Old London Road by vegetation to the front boundary. The existing plot of number 54 is covered by an Area Tree Preservation Order (TPO), which corresponds to the northern part of the development site.

8.23 The development proposed would result in a 60 metre long, unbroken frontage, which would take up much of the site frontage with little space to the side boundaries. The building would also extend close to the rear boundary with the properties in Overhill Way. Many trees and shrubs would be removed from the rear gardens and much of the vegetation to the front boundary would be removed.

8.24 Some trees are indicated to be retained on the frontage, but these will provide little screening of the development. The presence of the sub-station and 3 parking bays to the front of the development would reduce the potential to provide substantial tree screening at the northern end of the site. The site frontage is visible from the Patcham Conservation Area and the proposed development would remove much of the planting on the frontage which would provide a more urban character to the southern part of the Conservation Area. However, due to the distance of the development site from the Conservation Area (approximately 65 metres) it is not considered that the proposed development would detrimentally affect the setting of Patcham Conservation Area.

8.25 The building would be positioned too close to the boundary with number 44 to provide trees or shrubs along this boundary, and the car park to the rear of the development would not only threaten the longevity of the trees to be retained on the northern boundary, but the extent of the car park and its close proximity to

the boundaries of the site would prevent additional tree planting or other substantial vegetation in this area. A number of trees and some replacement trees are proposed to the eastern boundary but the foundations of the development and the retaining wall are likely to intrude upon the root protection areas of some of these trees and the proximity of the development to the eastern boundary would put pressure on these trees in terms of limiting their future growth.

8.26 The indicative landscaping proposed is not considered to be sufficient to retain the verdant, semi-rural character of the area. Overall, it is considered that due to the extent of the footprint of the building and hardstanding areas, and their proximity to the site boundaries, much of the existing vegetation would be lost and there would be limited potential to provide significant replacement planting. This would create a much more urban character to the site and would be detrimental to the character of the area and the street scene, contrary to saved Local Plan policies QD5, QD15, QD16 and City Plan Part One policies CP12, CP13 and CP14.

8.27 **Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

8.28 The proposed development would introduce a 3 storey projection to the rear of the site, with windows facing north and south. There would be potential overlooking from these windows to number 44 to the south and to the Park Court flats and communal gardens to the north. However, the distances to these boundaries - approximately 27.5 metres minimum from the southern boundary and approximately 18.5 metres from the northern boundary - would assist in reducing the overlooking potential.

8.29 The Council's Design Guidance for Extensions in SPD12 sets out minimum acceptable distances between properties, of 14 metres to the nearest facing residential window. Whilst this cannot be directly applied to this development as this is not an extension, it is a useful guide for acceptable distances to avoid overlooking.

8.30 There would be a number of first and second floor windows to habitable rooms facing the rear garden of no.44 and the properties beyond this to the south. However, the distance of 27.5 metres to the rear garden of no.44 is considered to be sufficient to prevent significant overlooking from the windows in the rearward projection to this property to the rear garden of no.44.

8.31 The Park Court flats to the north would also be of a sufficient distance from the development to prevent overlooking. In addition, the outdoor amenity space to the Park Court Flats are communal areas, and therefore are less sensitive to loss of privacy than private outdoor amenity space.

- 8.32 The frontage block of the proposed development would sit on a similar building line to the neighbouring properties (frontage block of Park Court and number 44). The frontage block would extend only approximately 1.5 metres beyond the rear elevation of the Park Court frontage block and approximately 4 metres beyond the rear elevation of number 44. Due to the distance of the proposed frontage block from these neighbours (12 metres from Park Court and 7 metres from no.44) it is considered that the proposed frontage block would not result in significant loss of light to these neighbouring properties.
- 8.33 The rear projection block extends a significant distance (approximately 36 metres) from the existing rear building lines of the existing properties at the site (nos. 46 - 54). The 45 degree approach set out in the BRE guidance and in the Council's SPD12 is also a useful tool for assessing new development. The proposed development slightly intrudes (by approximately 3 metres at the end of the rear projection) on a 45 degree line taken from the centre of the nearest rear-facing windows of no.44 and the Park Court flats (the front block). However, the part of the development which intrudes is the far end of the central projection, which is a distance of approximately 45 metres from these neighbouring windows. Therefore, it is considered that the proposed rear projection block would not result in significant loss of light or outlook to these neighbouring properties.
- 8.34 A Shadow Study is included in the submitted Design & Access Statement. This indicates that the development would create little or no overshadowing to neighbouring properties at the Summer Solstice, and there would be some overshadowing to the southern facing windows of the frontage block of flats at Park Court during parts of the early afternoon at the Spring and Autumn Equinoxes. This is considered to be an acceptable degree of overshadowing as it would not be likely to cause a significant loss of sunlight to these Park Court flats.
- 8.35 Therefore, due to the substantial distances to the neighbouring properties described above and the orientation of the sun, it is considered that the proposed development would not result in unacceptable loss of light or privacy to the neighbouring properties to the north and south of the site.
- 8.36 The proposed rear projection would be set approximately 6.5 to 8 metres from the eastern boundary. When viewed from the end of the rear gardens in Overhill Way this part of the development would appear as 2 storeys. This elevation would have only secondary windows to living rooms and kitchen windows which could be conditioned as obscure glazed and due to the elevated position of the houses in Overhill Way and the minimum distance of approximately 37 metres to the nearest property in Overhill Way from the end elevation, there would be no significant loss of privacy or outlook to these properties as a result of the development.
- 8.37 Some of the residents in Overhill Way raised concern over the solar panels proposed on the roof and that their properties would be affected by glare from the solar panels. This is not considered to be an issue given that the panels would be orientated within 90 degrees of due south and these properties are

located due east of the development. The land immediately to the north, south and west is approximately level with the site and therefore the solar panels would be at such a height that the effect of glare would not be likely to occur.

- 8.38 In terms of potential noise disturbance to neighbouring properties, it is considered that the potential sources of noise are the vehicular access and car park at the northern end of the site, the sub-station on the northern boundary and the kitchen extract system.
- 8.39 Whilst the vehicular access would be more intensely used than the existing access to no.54, it is considered that the background noise from Old London Road and the use of the adjacent vehicular access to the Park Court flats would counteract the potential noise disturbance to the residents of the Park Court flats. The vehicular access would be at a sufficient distance from other neighbouring properties such that it would not result in loss of amenity due to noise disturbance.
- 8.40 The applicant has not submitted noise information relating to the sub-station, therefore the sub-station could potentially create noise disturbance to the nearest neighbours at Park Court. Additional information is required in this respect.
- 8.41 The applicant has not submitted noise information relating to the kitchen extract equipment, however, given the location of the kitchen, it is a considerable distance from the boundaries with neighbouring properties, and is therefore unlikely to result in noise disturbance to them.
- 8.42 In terms of potential noise disturbance to the future residents of the development, additional information is required to assess the potential noise output from the sub-station and the kitchen extract equipment, and from the bin store and mobility scooter store, including details of internal ducting and plant equipment and their location in relation to the residential units. There should be substantial noise insulation between the ground and first floors to protect the residents above from noise disturbance from these noise sources, as well as from the communal areas such as the lounge and dining rooms, and the hairdressers on the first floor. A noise assessment is therefore required to assess the likely impact on the future occupants, as set out in the Environmental Health Officer's comments above. Without this information, the application cannot be supported.
- 8.43 The proposed 1 and 2 bed flats, and the entire development, would be wheelchair accessible, which is considered appropriate for the proposed end user and in compliance with retained Local Plan policy HO13. 27 of the flats would have a terrace or balcony but 17 flats would have only a Juliet balcony, providing no private amenity space. Retained Local Plan policy H05 requires all residential dwellings to have an element of private usable amenity space, particularly for those likely to spend a large part of their day in the home environment, which would apply in this case. However, the residents would have level access via the lifts to the rear communal gardens and there are staff

available on the site should any resident require assistance with travelling to and from the communal gardens and their flat.

8.44 The Design and Access Statement provides indicative landscaping plans. A communal garden is proposed to the rear of the development which would provide residents with an attractive space in which to walk, sit or do some gardening in the raised planters. This is welcomed, but is considered to be insufficient to compensate for the absence of private amenity space in 17 of the flats.

8.45 **Flood Risk:**

The Flood Risk Management Officer represents the Lead Local Flood Authority (LLFA), with a responsibility for surface and groundwater flooding, Sustainable Drainage Systems approval and other responsibilities derived from the Flood and Water Management Act 2010. The Officer objects in principle to the development, due to the flood risk at the site and the vulnerability of the intended residents of the development.

8.46 The applicant's proposed solution to the potential flood risk, to provide 200mm high thresholds to ground floor entrances and to contain the residents in the building during episodes of flooding, is considered insufficient and inappropriate, given the nature and duration of the historic flooding in Patcham, as set out in the Flood Risk Management Officer's comments, the neighbour comments and according to the Environment Agency's Flood Risk information set out in the Site Description.

8.47 Residents in this part of Old London Road were unable to use their toilets for a period of a few weeks during a recent flooding episode due to the inability to drain the floodwater away. Many local residents had no option other than to use portaloos set up in the area for a sustained period which is not a practical solution for the future occupiers of the development and would be likely to cause stress and anxiety to the elderly and frail residents.

8.48 City Plan policy CP11 seeks to manage and reduce flood risk and any potential adverse effects on people or property in Brighton & Hove, in accordance with the findings of the Strategic Flood Risk Assessment. Development proposals in locations that have been subject to previous localised flooding events (including, surface water/muddy floods, groundwater, or sewer floods) will need to demonstrate that the issue has been taken into account and appropriate mitigation measures incorporated. In particular development should include appropriate sustainable drainage systems in order to avoid any increase in flood risk and to ideally reduce flood risk.

8.49 It is considered that the development has not adequately taken the flood risk into account, has not offered appropriate mitigation measures and has not proposed an appropriate sustainable drainage system. Therefore, the development is considered to be contrary to policy CP11, and should be refused on this basis.

8.50 **Sustainable Transport:**

The proposed vehicular access would allow two-way traffic and is considered acceptable by the Highway Officer. It is possible for vehicles to enter and exit in forward gear though there would be benefit in a turning area at the end of the car park in the event vehicles enter to find that it is full.

- 8.51 SPD14 does not provide a specific standard for assisted living or sheltered housing. However, given the nature of the development proposed, the standard for residential institutions is considered to be most appropriate in this instance, which would equate to 12 spaces at this development. Although 27 spaces are proposed, the Highway Officer considers that in view of the nature of the development as set out in the application submissions, the parking provision would be acceptable.
- 8.52 SPD14 would require a minimum of 3 disabled bays, therefore it is recommended that these be secured by condition. Details of secure cycle parking for 8 cycles is also required to be submitted by condition.
- 8.53 There is no on-site provision for servicing. The Highway Authority does not raise any objections in this respect given that the frequencies are expected to be limited and typically undertaken by smaller vehicles. The collection of refuse from the public highway is consistent with the existing arrangement.
- 8.54 Due to the likely increase in trips at the new development, the Highway Officer requests a contribution of £29,550 in order to encourage sustainable travel to and from the development. In accordance with the City Plan Part One it is recommended that this be allocated towards:
- Shelter and/or real time information at Audrey Close northbound and/or southbound bus stops on Old London Road and/or
 - Pedestrian route and crossing improvements on Old London Road.
- 8.55 This is in order to provide for the needs of those accessing the site on foot and by public transport and to encourage sustainable modes of travel in accordance with Brighton & Hove City Plan Part One policy CP9. In addition, a Travel Plan focussed on staff travel is sought in accordance with policy TR4 of the Brighton & Hove Local Plan. The Highway Authority would also recommend that a Construction Environment Management Plan (CEMP) be secured by condition.
- 8.56 The Highway Officer recommends that a s278 agreement be made in order to secure the necessary works to the highway to the front of the development, which can be secured through the s106 agreement. A new pedestrian crossing would be required in order to safely accommodate the additional residents and provide safe and convenient pedestrian access to the west side of Old London Road, where there is a pavement. The Highway Officer has required plans to show the build out of the west side of the road to provide better visibility for the crossing and this can be agreed through the s278 agreement. The Highway Officer also recommends that an accessible bus stop kerb be provided on the east side of the road to safely accommodate the new residents onto southbound bus services. In addition, the existing vehicle accesses will become redundant and therefore the kerb will need reinstating.

8.57 Sustainability:

As a major scheme City Plan Policy CP8 sets a minimum standard of BREEAM 'excellent' standard for new build major non-residential development. Given the extent of the non-residential uses within the development, BREEAM excellent would be targeted for this development. As part of this assessment, the BREEAM Multi Residential* criteria will be applied. Planning conditions should be applied requiring a BREEAM New Construction design stage certificate at pre commencement stage, and a final BREEAM New Construction certificate pre occupation, demonstrating in each case that an 'excellent' standard has been achieved.

8.58 Other Considerations:

It is considered that an Artistic Component is provided at this development to the value of £25,000 which can be secured in the s106 agreement, in order to ensure the development complies with City Plan policies CP5, CP7 and CP13.

8.59 Should the application be approved, the following ecological mitigation measures to protect bats should be secured by condition:

- Details and location of bird and bat boxes to be submitted
- A precautionary approach to demolition whereby features that could be used by roosting bats are stripped carefully by hand under the supervision of a suitably qualified and experienced ecologist.
- Alternative roosting features should be provided on the new buildings and on mature trees around the boundaries as recommended in the report; those on trees should be installed prior to demolition.
- A sensitive lighting scheme
- Non-breathable bitumastic roofing membrane should be used instead of breathable membrane

9. EQUALITIES

9.1 The proposed development would provide wheelchair access throughout the site, there would be two lifts serving each floor and communal spaces are located centrally, close to the main entrance and a fully accessible WC is provided close to the communal areas.

Jeanette Walsh – Development Control Manager
Brighton & Hove City Council
King's House
Grand Avenue
Hove
BN3 2LS

25th July 2016

Dear Jeanette

Planning application BH2016/01961 – 46 – 54 Old London Road, Patcham

I have received an enormous number of representations from residents against the granting of planning permission for demolition of the existing dwellings at 46-54 Old London Road and the erection of a 3 storey 44 room care home with associated communal facilities, parking and landscaping. I also attended a public meeting of over 150 people, who were unanimously against the proposal. I can safely say that this is one of the biggest issues to face Patcham for some time.

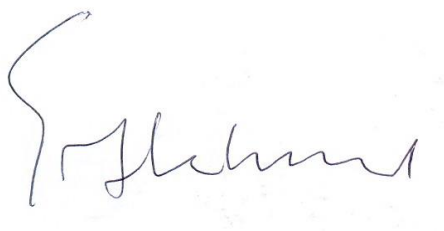
There are many reasons why they believe that this is not an appropriate development and I have listed these below:

1. **Scale of the development** – The location, on the edge of the important Patcham village Conservation Area, is entirely unsuitable for this type and scale of development. The development, by way of its height, bulk, scale and plan form, is both dominant and overbearing, showing a total lack of respect for the existing village setting and represents an overdevelopment of the site. If granted permission, this would also set a dangerous precedent for other developers wishing to demolish family housing in the area and build more dense accommodation.
2. **Increased traffic congestion and parking problems** – The area already has high levels of traffic arising from Patcham House School, Patcham Memorial Hall, the Scouts Hall and the local shops. In addition, the road is on several bus routes and is used as a 'rat run' in peak hours. The additional traffic created by the proposed development's residents, social and medical visitors, staff, tradespeople and delivery vehicles will increase and exacerbate existing traffic congestion and pollution. The limited number of parking spaces on the site will add to the existing parking problems in the area at peak times.

3. **Flooding / Sewage** – The proposal has the potential to increase the population on this site by in excess of 50 people resulting in increased pressure on a drainage system which has already had to cope with the new permanent and transit traveller sites at Horsdean. This area has a history of serious groundwater flooding resulting in raw sewage overflows into the surrounding roads, gardens and basements, with residents in 2000 being unable to use their toilets for weeks. Indeed, the Environment Agency has identified Brighton & Hove as one of only ten Flood Risk Areas in England and the Patcham area is classified as a flood risk ‘hotspot’ in Brighton & Hove City Council’s Surface Water Management Plan. Climate change is already leading to wetter winters with many more periods of intense rainfall increasing the risk of severe ‘flash flooding’. It would, therefore, be irresponsible to grant planning permission for a new development which will house a large number of elderly and vulnerable people.
4. **Pedestrian Safety** – There is no pedestrian crossing in the village and there is no pavement adjacent to the proposed development. Consequently, there will be no safe access to the local shops or to southbound buses - pedestrians being forced to cross the busy road without protection.
5. **Accommodation need** - there are already five existing residential/nursing homes for elderly and vulnerable people within a mile of this proposal. Furthermore, the proposal will result in the loss of five good family homes, which the Council acknowledge are in desperately short supply across the city.
6. **Trees / Green Space / Wildlife** – The proposal will remove a majority of the fifty one trees on the site and will concrete over a large area. The removal of this habitat will have a detrimental effect on wildlife from the loss of these trees and gardens. It will also increase the risk of surface water flooding in this already high risk area by removing a large natural rainwater soakaway and replacing it with impermeable concrete.

For all these reasons I do not believe that this application should be given planning permission. Should this application come before the Planning Committee I would like this letter printed in full on the agenda and would also like to attend the meeting and speak against the proposal.

Yours sincerely



Cllr. Geoffrey Theobald

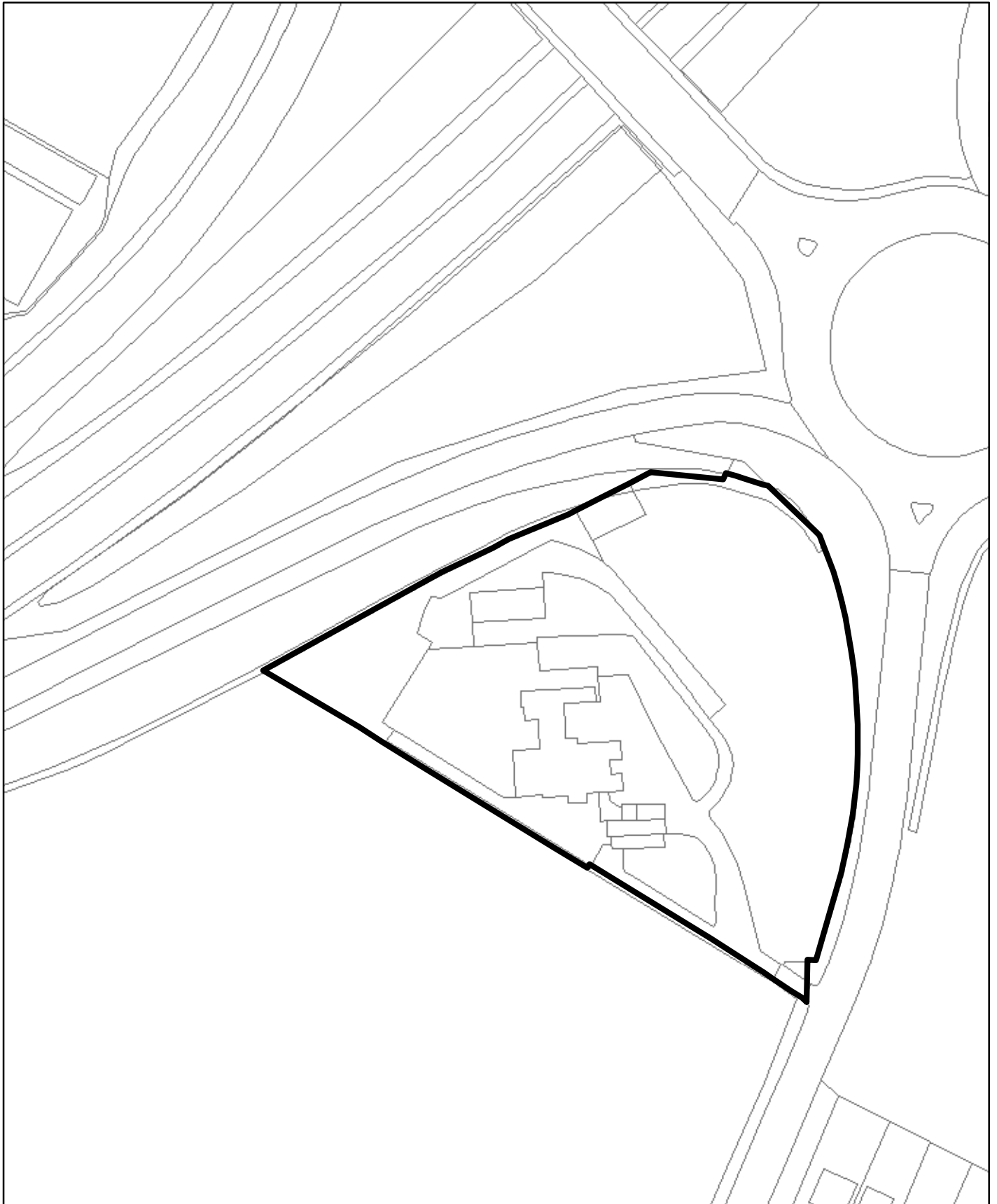
ITEM B

**Court Farm House, King George VI Ave,
Hove**

BH2015/04184

Full planning

11th January 2017



**Brighton & Hove
City Council**

N



Scale: 1:1,250

<u>No:</u>	BH2015/04184	<u>Ward:</u>	Hangleton &Knoll
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Court Farm House King George VI Avenue Hove BN3 6XJ		
<u>Proposal:</u>	Demolition of existing buildings and erection of 2no three storey blocks (one with basement parking) and 2no part three part four storey blocks containing 69no one, two and three bedroom flats (C3) (including 28no affordable housing units). Provision of 107 parking spaces, (67no at basement level and 40no at surface level) and 132 cycle spaces with associated landscaping and altered site access arrangements.		
<u>Officer:</u>	Liz Arnold, tel: 291709	<u>Valid Date:</u>	20.01.2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	20.04.2016
		<u>EoT/PPA Date</u>	31.01.2017
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Lewis and Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Thornton Properties Ltd C/O Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		

1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement and the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location Plan	PL_001		4 December 2015
Block Plan Existing	PL_002		4 December 2015
Existing Elevations	(AA,FF) PL_003		4 December 2015
Existing Elevations	(JJ, KK) PL_004		4 December 2015
Block Plan Proposed	(LEVEL -01) PL_009		4 December 2015
Block Plan Proposed	(LEVEL 00) PL_010	Rev: B	27 October 2016
Block Plan Proposed	(LEVEL 01) PL_011		4 December 2015
Block Plan Proposed	(LEVEL 02) PL_012		4 December 2015

Block Plan Proposed	(LEVEL 03) PL_013	Rev: B	27 October 2016
Block Plan Proposed	(LEVEL 04) PL_014	Rev: A	27 October 2016
Detail	(BAY 01) PL_024	Rev: A	27 October 2016
Detail	(BAY 02) PL_024		4 December 2016
Floor Plans Proposed	(01) PL_027	Rev: B	27 October 2016
Floor Plans Proposed	(02) PL_028	Rev: B	27 October 2016
Floor Plans Proposed	(03) PL_029		4 December 2016
Floor Plans Proposed	(04) PL_030	Rev: A	27 October 2016
Elevations Proposed	(AA, BB) PL_018	Rev: A	27 October 2016
Elevations Proposed	(CC, DD) PL_019	Rev:A	27 October 2016
Elevations Proposed	(EE, FF) PL-020	Rev: A	27 October 2016
Elevations Proposed	(GG, HH) PL_021	Rev: A	27 October 2016
Elevations Proposed	(JJ, KK) PL_022	Rev: A	27 October 2016
Sections Proposed	(LL, MM) PL_023	Rev: A	27 October 2016
Detail	(BAY 03) PL_024		4 December 2016
Other	SECTION AND OVERLAY SK_016		27 October 2016
Other	CROSS SECTION AND OVERLAY SK_019		27 October 2016
Landscaping Proposed	LANDSCAPE AREAS SK_020		27 October 2016
Landscaping Proposed	LANDSCAPE MASTERPLAN 0071.P.102	Rev: 5	5 December 2016
Landscaping Proposed	DETAIL BLOCK A 0071/PL/103	Rev: 3	7 January 2016
Landscaping Proposed	DETAIL BLOCK D 0071/PL/104	Rev: 3	7 January 2016
Landscaping Proposed	COMMUNAL GARDEN 0071/PL/105	Rev: 3	7 January 2016
Landscaping Proposed	TREE PLANTING 0071/PL/201	Rev: 5	5 December 2016
Landscaping Proposed	GENERAL PLANTING 0071/PL/202	Rev: 2	7 January 2016
Landscaping Proposed	PLANT CONTACT SHEET 0071/PL/203	Rev: 2	7 January 2016
Other	OWNERSHIP AND MANAGEMENT	Rev: 2	21 January 2016
Sections Proposed	0071/PL/301	Rev: 2	7 January 2016
Sections Proposed	0071/PL/302	Rev: 2	7 January 2016

Sections Proposed	0071/PL/303	Rev: 2	7 January 2016
Other	HARDSCAPE DETAILING 0071/PL/401	Rev: 2	7 January 2016
Other	HARDSCAPE WALLS 0071/PL/402	Rev: 1	7 January 2016
Other	LIGHTING/FURN ITURE 0071/PL/501	Rev: 2	7 January 2016
Other	WILDLIFE/ECOL OGY 0071/PL/601	Rev: 2	7 January 2016

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

- 3 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
Reason: The site lies above the Newhaven Chalk Formation, which is designated a Principal Aquifer. These aquifers provide significant quantities of water for people and may also sustain rivers, lakes and wetlands. They are therefore groundwater resources that must be protected and to comply with policy SU3 of the Brighton & Hove Local Plan.

- 4 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
Reason: The site lies above the Chalk, which is designated a Principal Aquifer. These aquifers provide significant quantities of water for people and may also sustain rivers, lakes and wetlands. They are therefore groundwater resources that must be protected and to comply with policy SU3 of the Brighton & Hove Local Plan.

- 5 Access to the flat roofs over the development hereby approved shall be for maintenance or emergency purposes only and the flat roofs shall not be used as a roof garden, terrace, patio or similar amenity area.
Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 6 The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.
- 7 The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.
Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One.
- 8 No development shall commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
- 9 No development shall take place until a scheme setting out highway works has been submitted to and approved in writing by the Local Planning Authority. This should include details of the following:
- i) Site access, junction, footway and crossing works on King George VI Avenue;
 - ii) Re-provision of highway signage on west side of King George VI Avenue adjacent to the site;
 - iii) Full details of proposed tree planting and landscaping on the public highway;
 - iv) Stage 2 Road Safety Audit.
- No part of the building hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.
Reason: As this matter is fundamental to the acceptable delivery of the permission to ensure that suitable footway provision and vehicle access is provided to and from the development and to comply with policies CP9 of the Brighton & Hove City Plan Part One and TR7 of the Brighton & Hove Local Plan.
- 10 Prior to the commencement of development on site, detailed drawings, including layout plan, levels, sections and constructional details of all the proposed roads, footways, surface water drainage, outfall disposal and street lighting are to be provided to the Local Planning Authority and be subject to its approval. The Highway Authority would wish to see the roads within the site that are not to be

offered for adoption are constructed to standards at, or at least close to, adoptable standards.

Reason: As this matter is fundamental to the acceptable delivery of the permission in the interests of highway safety and for the benefit and convenience of the public at large and to comply with policy TR7 of the Brighton & Hove Local Plan.

- 11
- i) No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.
 - ii) The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under part i) and that provision for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: As this matter is fundamental to the acceptable delivery of the permission to ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan.

- 12
- (i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:
 - (a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice; and, unless otherwise agreed in writing by the Local Planning Authority,
 - (b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2001; and, unless otherwise agreed in writing by the Local Planning Authority,
 - (c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.
 - (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of (i) (c) above that any remediation scheme required and approved under the provisions of (i) (c) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:
 - a) As built drawings of the implemented scheme;
 - b) Photographs of the remediation works in progress; and

c) Certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i) (c).

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

- 13 No development shall commence until fences for the protection of trees, shrubs and hedges growing adjacent to the site to be retained have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be erected in accordance with BS5837 (2012) and shall be retained until the completion of the development and no excavations for services, lighting of fires or disposal of liquids shall take place within any area designated and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.
Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
- 14 No development shall take place until a detailed design and associated management and maintenance plan of foul and surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.
Reason: As this matter is fundamental to the acceptable delivery of the permission to ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.
- 15 No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
A preliminary risk assessment which has identified:
- 1)
 - a) All previous uses
 - b) Potential contaminants associated with those uses
 - c) A conceptual model of the site indicating sources, pathways and receptors
 - d) Potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving

full details of the remediation measures required and how they are to be undertaken.

- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: As this matter is fundamental to the acceptable delivery of the permission and the site lies above the Chalk, which is designated a Principal Aquifer. These aquifers provide significant quantities of water for people and may also sustain rivers, lakes and wetlands. They are therefore groundwater resources that must be protected and to comply with policy SU3 of the Brighton & Hove Local Plan.

- 16 No development shall take place (including any demolition, ground works, site clearance) until a method statement for the rescue and translocation of reptiles has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:

- a) Purpose and objectives for the proposed works;
- b) Detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) Extent and location of proposed works shown on appropriate scale maps and plans;
- d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) Persons responsible for implementing the works;
- f) Initial aftercare and long-term maintenance (where relevant);
- g) Disposal of any waste arising from the work.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard protected species from the impact of the development in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.

- 17 No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) Samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) Samples of all cladding to be used, including details of their treatment to protect against weathering

- c) Samples of all hard surfacing materials
- d) Details of the proposed window, door and balcony treatments
- e) Samples of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and policies CP12 and CP15 of the Brighton & Hove City Plan Part One.

- 18 No development above ground floor slab level of any part of the development hereby permitted shall take place until a detailed scheme shall be submitted in writing to the Local Planning Authority for approval, which outlines the glazing and ventilation specifications that shall be installed in the buildings. The glazing and ventilation requirements shall ensure that internal noise levels will achieve BS8233:2014 and WHO standards.

Reason: To ensure that an acceptable standard of accommodation is provided in terms of air quality, ventilation and noise attenuation to the occupiers of the residential units hereby approved and to comply with policies SU9; SU10 and QD27 of the Brighton & Hove Local Plan.

- 19 a) No development above ground floor slab level of any part of the development hereby permitted shall take place until, a showing that the Party Walls and Floors between the refuse/recycling areas, bicycle storage areas and plant rooms and the residential units, shall achieve an airborne and impact sound insulation value of 5dB better than that specified in Approved Document E of the Building Regulations has been submitted to and approved in writing by the Local Planning Authority.

b) Post completion but prior to occupation, results of tests showing that the standard required in part a) has been achieved, shall be submitted for approval to the Local Planning Authority. The written report shall contain details of what if any additional mitigation measures are necessary to achieve the required standard in part a).

Reason: To ensure that an acceptable standard of accommodation is provided in terms of noise attenuation to the occupiers of the residential units hereby approved and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

- 20 No development above ground floor slab level of any part of the development hereby permitted shall commence until a scheme for the suitable treatment of all plant and bicycle storage equipment, against the transmission of sound and/or vibration has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.

Reason: To safeguard the amenities of the future occupiers of the dwellings hereby approved and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

- 21 The wheelchair accessible dwellings hereby permitted as detailed on drawing no. PL_010 Rev:B received on 27/10/2016 shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.
Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
- 22 No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of the green roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.
Reason: To ensure that the development contributes to ecological enhancement on the site and in accordance with policy CP10 of the Brighton & Hove City Plan Part One.
- 23 Prior to the first occupation of the development hereby approved, a Car Park Management Plan shall have been submitted and approved in writing by the Local Planning Authority. This should include details of any allocation policy, provision for visitors and management of electric vehicle charging points. The car park shall thereafter be managed in accordance with the approved plan.
Reason: To ensure that parking provision is managed efficiently and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14.
- 24 The development hereby permitted shall not be occupied until details of electric vehicle charging points for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
Reason: To encourage travel by more sustainable means and to comply with policy CP9 of the Brighton & Hove City Plan Part One.
- 25 Prior to first occupation of the development hereby permitted, details of disabled car parking provision for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with Brighton & Hove Local Plan policy TR18 and SPG4.

- 26 Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

- 27 Prior to first occupation of the development hereby permitted, details of external lighting shall have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.

- 28 Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a) Details of all hard and soft surfacing;
- b) Details of all boundary treatments;
- c) Details of all proposed planting to all communal areas and/or all areas fronting a street or public area, including numbers and species of plant, and details of size and planting method of any trees.

All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 29 None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of

19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).

Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.

- 30 None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.

Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.

- 31 No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: The site lies above the Chalk, which is designated a Principal Aquifer. These aquifers provide significant quantities of water for people and may also sustain rivers, lakes and wetlands. They are therefore groundwater resources that must be protected and to comply with policy SU3 of the Brighton & Hove Local Plan.

- 32 The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 33 Prior to first occupation of the development hereby permitted a scheme to enhance the nature conservation interest of the site, including details of compensatory bird / bat boxes shall have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first occupation of the development hereby approved.

Reason: To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on

this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

- 2 The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' for Zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).
- 3 The water efficiency standard required is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
- 4 The LLFA notes the Sustainable Drainage Report and Flood Risk Assessment, January 2016 (Ref:11782/08) submitted in support of the application:
To discharge the relevant condition the LLFA would expect to see:
 - An appropriate soakaway test in accordance with Building Research Establishment Digest 365 (BRE365). Details of the results will need to be provided.
 - Appropriate calculations to demonstrate that the proposed sustainable drainage, i.e. permeable paving and soakaway will be able to cope with both winter and summer storms for a full range of events and storm durations.
 - The applicant should demonstrate that the sustainable drainage system will be able to cope with a 1 in 100- year plus climate change event.
- 5 The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk
- 6 The applicant is advised that the detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding.

- 7 The applicant is advised that a formal application for connection to the water supply is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk
- 8 The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
- 9 The applicant is advised that they must enter into a Section 278 Agreement with the Highway Authority prior to any works commencing on the adopted highway.
- 10 The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March - 30th September. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest.
- 11 The applicant is advised of the possible presence of bats on the development site. All species of bat are protected by law. It is a criminal offence to kill bats, to intentionally or recklessly disturb bats, damage or destroy a bat roosting place and intentionally or recklessly obstruct access to a bat roost. If bats are seen during construction, work should stop immediately and Natural England should be contacted on 0300 060 0300.
- 12 The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website (www.communities.gov.uk).
- 13 The applicant is advised that the above condition on land contamination has been imposed because the site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.
To satisfy the condition a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of (i) (b) and (i) (c) of the condition.
It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website (www.defra.gov.uk) and the Environment Agency website (www.environment-agency.gov.uk).
- 14 The Travel Plan shall include such measures and commitments as are considered necessary to mitigate the expected travel impacts of the

development and should include as a minimum the following initiatives and commitments:

- (i) Promote and enable increased use walking, cycling, public transport use, car sharing, and car clubs as alternatives to sole car use;
- (ii) Identify a monitoring framework, which shall include a commitment to undertake annual surveys to enable the Travel Plan to be reviewed and updated as appropriate;
- (iii) Include results of baseline travel surveys and updated targets;
- (iv) Following the annual survey, an annual review will be submitted to the Local Planning Authority to update on progress towards meeting targets;
- (v) Identify a nominated Travel Plan Co-ordinator who will become the individual contact for the Local Planning Authority relating to the Travel Plan.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 Court Farm is located at the very edge of the City, adjacent to the A27, which forms the boundary with the South Downs National Park (SDNP). The site is directly bounded by King George VI Avenue to the east, Devil's Dyke Road roundabout to the north, the A27 west bound slip road to the west and Toad's Hole Valley to the south (currently a large piece of open land). The residential area of Goldstone Valley/Hove Park is located to the east and south-east of the site and Hangleton and Knoll to the south-west.
- 2.2 The site, which comprises 0.97 hectares, currently accommodates a single dwellinghouse and associated garages/storage.
- 2.3 Court Farm forms the northern-eastern tip of Toad's Hole Valley, with a combined area of 47 hectares; however Court Farm is in separate ownership to Toads Hole Valley.
- 2.4 The topography of the site slopes up by 4 or 5m from the site entrance in the south east corner to the high point at north-west corner.
- 2.5 Boundaries of the South Downs National Park are located to the west and north of the site and the Toad's Hole Valley Site of Nature Conservation Importance is located to the south-west of Toad's Hole Valley.
- 2.6 Planning permission is sought for the demolition of the existing buildings and the erection 69 flats comprised within four residential blocks, the provision of 107 parking spaces (including 67 no. at basement level), 132 cycle spaces, associated landscaping and altered site access arrangements.
- 2.7 Block D (3 storeys plus basement parking) would front the Dyke Road Avenue/King George VI Avenue roundabout whilst Blocks A (3 storeys), B and C (part 3, part 4 storeys), would extend rearwards in a south-western direction.
- 2.8 The proposal would comprise the following residential units including 28 affordable housing units (with a density of approximately 68.5 dwellings per hectare);

- 7 x 1 bedroom flats (all affordable)
- 34 x 2 bedroom flats, (including 15 affordable) and
- 28 x 3 bedroom flats (including 6 affordable)

Since submission of the application the proposal has been amended in the following ways;

- The loss of 5 flats from Block A following the removal of the proposed fourth floor level, and
- The removal of 5 proposed vehicle parking spaces.

3. RELEVANT HISTORY

BH2012/03446 - Demolition of existing buildings and construction of 5 no two storey detached dwelling houses and a 58 bed space, part two and part three storey nursing home with associated landscaping and access works and provision of 28 new car parking spaces and 15 cycle spaces. Refused 11/04/2013 on the following grounds;

1. The site lies outside the present Built-up Area boundary defined by the Brighton and Hove Local Plan and the application fails to demonstrate that the development would justify a countryside location contrary to policies NC5 and NC6 of the Brighton and Hove Local Plan,
2. The application, due to its proposed uses, density, timing, access and relationship to the remainder of the Toad's Hole Valley allocated site fails to demonstrate that it would not prejudice an emerging strategic land designation for the comprehensive delivery of housing, employment and infrastructure vital to the sustainable growth of the city. This is contrary to Policy DA7 of the emerging Brighton and Hove City Plan - Part One, and
3. The application, in the absence of detailed measures to promote and encourage sustainable transport and provide a legal obligation for highway improvements, fails to provide for the travel demand it creates. As such, the proposal is contrary to policies TR1 and QD28 of the Brighton and Hove Local Plan.

Appeal Allowed

BH2004/01017/FP: Demolition of existing stables and construction of new building for storage and vehicle garaging. Approved 14/05/2004.

3/90/0019: Change of use from agricultural storage to general storage - Refused 28/02/1990. Appeal Dismissed 13/11/1990.

84/0357 : Change of use of single dwelling house into Rest Home. Refused 20/07/1984.

83/0245: Change of use of single dwelling house to holiday home for mentally retarded adults Class 111 Registration 1947 NHS. Approved 19/05/1983.

3/81/0241: Outline application for the erection of a 10,000m² hypermarket and associate parking for 1,200 cars. Refused 12/06/1981.

M/10068/63: Garage for Agricultural vehicle. Approved 11/10/1963

M/6484/59: Extension to ground floor at rear and alterations to provide bathroom WC and bedroom. Approved 06/07/1957.

M/1736/51: Outline for a farm bungalow. Approved 12/07/1951.

Pre-Application

No pre-application consultation with the Local Planning Authority has been undertaken regarding the proposed development shown within the current application however it is stated within the submission that letters, advising local residents that a planning application for new development was to be submitted, were sent to local residents in October 2015.

4. REPRESENTATIONS

4.1 **Five (5)** letters have been received from **48 (x2) and 187 Woodland Avenue, 7 The Heights and Unknown Elizabeth Avenue** objecting to the proposed development for the following reasons:

- The site would not be suitable for a high density development. Appreciate need for new housing and the shortage of suitable land in the City however proposal is massively disproportionate in size and scale for this particular site,
- Area is already congested with traffic; the roundabout is notorious for traffic delays. Roads are already insufficient for traffic. King George VI Avenue is already saturated and a new junction to support an increase of over 74 vehicles would significantly saturate this road during rush hours.
- The style of the building is better suited to the town centre than to buildings on the edge of a National Park. Would prefer a detached housing estate,
- Site is high on a hill at the very edge of the South Downs National Park. Buildings several storeys high will greatly and detrimentally impact on the outstanding views from Hove towards the Downs and also from the Downs towards the sea in the area of the development.
- Will spoil the outlook over the downs and is a complete modern monstrosity, and
- The inevitable number of cars would also result in higher air pollution levels to which locals are already subjected from queuing traffic.

4.2 Following re-consultation of the revised plans and documents received on the 27th and 31st October 2016 **two (2)** further representations have been received from **48 Woodland Avenue** objecting to the proposal on the following grounds;

- The road on which the site is based is extremely busy and fast, it would be exceptionally dangerous to have significant numbers of pedestrians crossing to and from the site,

- There is already significant congestion in the area especially at peak times and the roads could not cope with the additional traffic,
- The size and height of the development is totally out of keeping with the setting and surroundings,
- At present there are wonderful views for the edge of Hove towards the National Park which is a precious amenity for residents, a development on this scale in such an elevated position would totally disrupt the enjoyment of these views.

4.3 **Councillor Vanessa Brown:** Objects E-mail 11/03/2016 attached.

5. CONSULTATIONS

5.1 External

5.2 **County Archaeologist:** Comments 15/02/2016 and 21/11/2016 following receipt of amendments The proposed development is of archaeological interest due to its scale and location in close proximity to number of prehistoric and Romano-British sites, including human burial sites. The application does not include a heritage statement, but it appears from the topographic plan that a large section of the site has not been subject to recent ground reduction or significant disturbance. There is thus a potential for below ground archaeological remains to survive on this site.

5.3 In light of the potential for loss of heritage assets on this site resulting from development the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features, disturbed during the proposed works, to be adequately recorded. These recommendations are in line with the requirements given in the NPPF.

5.4 **County Ecologist:**

Comment 17/02/2016 Provided that the recommended mitigation measures are implemented, the proposed development is unlikely to have a significant impact on biodiversity. If the Council is minded to approve, a Grampian condition should be applied requiring the agreement of a robust reptile mitigation strategy before works can start. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and the NERC Act.

5.5 Comments 8/06/2016 following receipt of further ecology information The letter submitted states that a suitable receptor site has been identified in Polegate however the map provided is of Coldwaltham in Pulborough. Clarification is required as to the actual location of the site. Further information is required about the proposed receptor site including size, geology and habitat type, its current status for reptiles and how it will be managed in the long term. As the proposed receptor site will be within another Local Planning Authority's area of jurisdiction it is recommended that a legal agreement is used to ensure protection and management of the site for reptiles in the long-term. If sufficient information regarding the receptor site cannot be agreed prior to planning permission being granted than a Grampian condition should be applied. If the

information regarding the receptor site can be provided and agreed then it is recommended that a condition be applied requiring details of the Reptile Mitigation Strategy.

- 5.6 Comments 11/08/2016 following receipt of further ecology information and a discussion with applicant's Ecologist Given the assurance that a suitable receptor site can be provided, it is recommended that the application be supported from an ecological perspective.
- 5.7 Comments 6/12/2016 following receipt of revised landscaping plans The revised layout provides a wider buffer zone with native tree planting and is therefore acceptable from an ecological perspective.
- 5.8 **County Landscape Architect:**
Comment 10/02/2016 As the site is bounded to the north and east by the South Downs National Park consideration should be given to potential impacts on landscape and visual amenity of the National Park. If permitted the proposed development would need to incorporate suitable landscape mitigation measures to ensure that it would meet the design requirements of the NPPF and this would include appropriate design details for external works and planting schemes.
- 5.9 It is recommended that the application is not supported as it would be over development of the site and it would not be possible to effectively mitigate the landscape and visual impacts of the proposal.
- 5.10 Comments 24/05/2016 following receipt of further information The images indicating the relationship of the proposed development at Court Farm with the wider Toads Hole Valley (THV) site (including the indicative masterplan for the valley as submitted with the application) are acknowledged. The detailed design for THV would provide an opportunity to ensure that adequate landscape buffers can be provided to mitigate the potential impacts of the development in the South Downs National Park (SDNP). Further to this the height of buildings within the most elevated parts if the THV development could be restricted to two storeys to minimise impacts on views from the SDNP. Court Farm is at the highest point at the eastern end of the valley and therefore the most prominent.
- 5.11 The proposed development would break the skyline from several of the illustrated viewpoints, notably 3 and 8 and in views which are not illustrated from the eastern end of Green Ridge open space. Whilst it is acknowledged that the most significant visual impacts will be in a localised area surrounding the roundabout this will change the interface between the rural and urban area in this location. In contrast the THV development would be set back from the roundabout. The proposed trees within the application site will break up the façade of the flats to some degree, however the development would be a dominant gateway feature at the top of Dyke Road. It is questionable whether this is appropriate in the context of the boundary with the SDNP and the transition from the rural to urban area.

- 5.12 Comments 22/11/2016 following receipt of amendments It is recommended that the application can be supported subject to further consideration of the localised impact on the entrance to the town and the need for more substantial tree planting on the northern and eastern boundary as mitigation for the landscape and visual impacts of the proposal.
- 5.13 Comments 5/12/2016 following receipt of amendments The plan does now include tree planting between Block D and the roundabout which will help to reduce the scale of the building when viewed from the road. The list of tree species seems to be missing, but this can be dealt with as a condition. The planting on the road verge would be welcomed highways will agree to it.
- 5.14 **East Sussex Fire and Rescue Service:** No Comment 28/01/2016
- 5.15 **Environment Agency:** No objection subject to the inclusion of conditions regarding land contamination, surface water drainage and piling.
- 5.16 **Highways England:** No objection Whilst do not entirely agree with the methodology contained within the Transport Assessment provided supporting the application, are satisfied that if granted consent the development would have little impact on the safe operation of the Strategic Road Network. Accordingly have no objection to the development proposals.
- 5.17 **South Downs National Park Authority:** Objection 3/03/2016 Consider the proposed development to have a detrimental impact on the setting, including the backdrop views of the South Downs National Park and the special qualities thereof. Therefore conclude and express serious concerns that the development, as proposed, would be detriment to the setting, backdrop and special qualities of the South Downs National Park.
- 5.18 As the landscape, with its special qualities, is the main element of the nearby South Downs National Park and its setting, attention is drawn to the South Downs Integrated Landscape Character Assessment (Updated 2011) as a key document as part of the overall assessment of the impact of the development proposal, both individually and cumulatively, on the landscape character of the setting of the South Downs National Park.
- 5.19 Would also draw attention to the Duty of Regard as set out in DEFRA guidance. May also be helpful to consider the development in the context of National Park Circular 2010 for guidance on these issues.
- 5.20 **South Downs Society:**
Comment 23/02/2016 Court Farm is located in the north east corner of an area known as Toad's Hole Valley which was designated part of the Sussex Area of Outstanding Natural Beauty back in the 1960s and retained that status even after the A27 bypass was built, but was excluded from the National Park when it came into being in April 2010. It remains outside the urban boundaries and forms part of the open and sweeping downland on the edge of the City adjacent to the National Park. The site has been subsequently included in the emerging City Plan and is presently designated as a development area (DA7).

- 5.21 Back in 2012 an application was received for 5 houses and a 58 bed nursing home on land in a highly prominent location on the edge of the South Downs. The Society responded stating that granting permission would be premature and that any proposed development on this site must be considered in the wider context of the Toad's Hole Valley area as a whole and not in isolation. The Authority concurred with this position and, with other reasons, refused permission. However the application was allowed on appeal. In allowing the appeal the Inspector confirmed that commercial or residential uses would be acceptable on the site and could be developed independently from the rest of the Toad's Hole Valley Area, therefore the principle for development on the site has been established.
- 5.22 Concerns for the previous application (BH2012/03446) also included the visual impact on the setting of the National Park. Under Section 62 of the Environment Act 1995 the Council has a duty to have regard to the impact of its decisions on the neighbouring national park. These concerns remain in respect of this current application. In particular, a number of the visual representations show the development extending above the tree line and visible from the park. Have previously indicated that both the design and density of any development on the Toad's Hole Valley site would be crucial if it is to avoid damaging the views in and out of the park. Would not like to see a precedent being set if this application was to be granted permission in its present form. Ask that the Council revert to the applicant and consider with them further options on design to enable a reduction in height of the development prior to any decision.
- 5.23 Additional comments 22/11/2016 following receipt of amendments Whilst had concerns over the 2012 application, did acknowledge the merits in demolishing the existing buildings and that the proposals were more sympathetic in terms of building design and materials given the location. Are therefore disappointed with these latest proposals for 4 blocks of flats. Whilst the application states that the form and style compliments the site's location on the edge of the built up area, no significant regard appears to have been given to its location adjacent to the National Park.
- 5.24 Whilst it is said that the existing dense tree screen along the northern boundary of the site means that the scheme will not be readily visible from the South Downs National Park, consider that given the very prominent location of the site at the very top of King George VI Avenue there will inevitably be a degree of negative impact on the setting of the Park. Remind Council of its duty under Section 62 of the Environment Act 1995 to have regard for the designation of the Park.
- 5.25 Concerns are that by granting permission for the blocks of flats in the form set out in this application it may set a precedent for future proposals for the remainder of DA7 Toad's Hole Valley area. Whilst sympathize that it will be challenging to keep any negative impact on the Park to an absolute minimum, consider that there is a good opportunity here to get it right and to ensure that the style and design is in keeping not just with the nearby existing urban conurbation but most importantly to the National Park.

- 5.26 **Southern Water:**
Comments 11/02/2016 Initial investigations indicate that Southern Water cannot accommodate the needs of the application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the NPPF. Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested by the developer to accommodate the above mentioned proposal.
- 5.27 The application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.
- 5.28 If minded to approve recommend conditions regarding means of foul water disposal and foul and surface water sewerage disposal.
- 5.29 Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.
- 5.30 The detailed design for the proposed basement should take into account the possibility of the surcharging of the public sewers.
- 5.31 The proposed development would lie within a Source Protection Zone around one of Southern Water's public water supply sources as defined under the Environment Agency's Groundwater Protection Policy. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served and potential means of access before any further works commence on site. Following initial investigations Southern Water can provide a water supply to the site.
- 5.32 Additional comments 24/11/2016 following receipt of amendments The exact position of a public water trunk main must be determined on the site by the applicant before the layout of the proposed development is finalised.
- 5.33 All existing infrastructure, including protective coatings and cathodic protection, should be protected during the course of construction works. No excavation, mounding or tree planting should be carried out within 6 metres of the public water trunk main without consent from Southern Water.
- 5.34 **Sussex Police:**
Comments 11/02/2016 and 10/11/2016 following submission of amendments In general terms support the proposed design and layout which will create a single

vehicle access point with no through route, leading to both the ground level and basement car parking areas. This will give residents a sense of ownership and community and will serve to deter trespass. The road and footpath layout, together with communal areas, are well overlooked and benefit from the natural surveillance of the dwellings they serve. Good provision has been made for secure cycle and refuse storage in each of the four blocks. Door locks should be installed with a thumb screw turn on the inner face to prevent accidental lock in. Mechanically operated push button locks conforming to BS 8607 are an ideal means of securing this type of doorset.

5.35 The Design and Access Statement refers to measures to create a safe and secure environment using the principles of Secured by Design and the attributes of safe, sustainable places, particularly in relation to the physical security of the dwellings using accredited door and window products, with access control where appropriate. This development would benefit from accreditation under the Secured by Design scheme.

5.36 **Internal**

5.37 **Arboriculturist:** No objection 29/02/2016 and 11/11/2016 following receipt of amendments Welcomes the use of basement parking as part of the design in this scheme and has no objection to the proposals. However, any consent granted should be subject to suitable conditions being attached to secure a detailed landscape planting scheme as well as measures to protect trees retained or on land adjoining the site.

5.38 **City Clean:** No objection 11/02/2016 Has no objections to the proposed development as long as requirements are met regarding amount of storage provided and access into site for refuse vehicles.

5.39 Additional comments 11/04/2016 in response to Transport Officer comments. Further to the comments provided by the Transport Department have reviewed the swept paths provided for the refuse vehicles and believe them to be acceptable. The reversing distances have been assessed and operations team have agreed that they are satisfactory.

5.40 **City Regeneration Officer:**

Comments 11/02/2016

Have no adverse comments. If approved request a contribution through a S106 agreement for the payment of £37,000 towards the Local Employment Scheme in accordance with the Developer Contributions Guidance. An Employment and Training Strategy is also required, to be submitted at last one month in advance of site commencement. The developer will be required to commit to using at least 20 percent local employment during the demolition phase (where possible) and construction phase (mandatory).

5.41 Comments 16/11/2016 following receipt of amendments Have no adverse comments. The provision of 69 dwellings (actual 68 net gain) will make some contribution to the City's challenging housing targets, particularly through the proposed 28 affordable housing units. If approved request a contribution through a S106 Agreement for the payment of £25, 800 towards the Local

Employment Scheme in accordance with the Developer Contributions Guidance.

- 5.42 In addition an Employment and Training Strategy is also required to be submitted at least one month in advance of site commencement. The developer will be required to commit to using at least 20 percent local employment during the demolition phase (where possible) and construction phases (mandatory).
- 5.43 **Design Review (Internal): Comment 9/02/2016** It is strongly recommended that the design for the development be further developed with the benefit of independent, expert Design/PLACE review. As a minimum consideration should be given to;
- How well the development sets the tone for a new large building on the city fringe overlooking the South Downs National Park and the quality of building and public realm design expected for the Toad's Hole Valley site,
 - Re-configuring the road layout inside the site to provide efficient, effective shared space areas that can be truly shared by all users of the development, ie considering less standard streetscapes that reflects a different balance and use for residents and vehicles,
 - Improving accessibility to and from the site, in particular when it comes to providing safe links from and to existing infrastructure for pedestrians, cyclists and bus users; and
 - Benefits of aluminium fins on facades is not clear and facades of outer perimeter of the scheme should be reviewed.
 - Massing and height are appropriate, in particular when it comes to long views.
 - Footprint and layout are considered appropriate. The fact that the layout enables residents to have great views of Toad's Hole Valley and the South Downs is welcomed.
- 5.44 Comments 31/05/2016 following receipt of amendments Welcome the removal of the 5 parking spaces and replacement with flat area that could be flexibly used by residents. It is disappointing however that no additional changes to the scheme were made to address the other issues raised in previous comments. Stand by those and have no additional comments to make at this stage.
- 5.45 **Education Officer:**
Comment 09/02/2016 If development was to proceed would seek a contribution of £127,023.40 (which takes into account the existing 3 bedroom dwelling on site) towards the cost of secondary and sixth form provision. In this instance are not requiring a contribution in respect of primary provision as the closest school to the development has significant surplus places at the present time. With regards to the secondary provision the development is currently in the catchment area for Blatchington Mill and Hove Park School. Both these schools are currently full and therefore it is entirely appropriate to seek a contribution in this respect.
- 5.46 Comment 14/11/2016 following receipt of amendments If development was to proceed would seek a contribution of £117,029 (which takes into account the

existing 3 bedroom dwelling on site) towards the cost of secondary and sixth form provision.

5.47 **Environmental Health:**

5.48 Comments 24/02/2016

5.49 Noise A Noise Assessment has been submitted with the application. This assessment builds on a previous assessment for the site in 2012 with an additional survey carried out during April 2015. The survey results were then used in a noise model.

5.50 The results indicate that provided the windows of the future residential premises are closed, internal noise conditions will satisfy BS8233:2014. However, if windows to the premises facing the roads around the scheme are open, then these standards will not be achieved. Therefore, a suitable ventilation scheme is required. As the exact details of the development are yet to be 100 percent established, the need for a suitable glazing and ventilation scheme for the site is recommended to be conditioned.

5.51 It is noted that habitable rooms including bedrooms share party walls with bike stores, bin rooms and plant rooms. These uses have the potential to cause air borne and structure borne noise and vibration problems in adjacent residencies. Therefore it is recommended that sound insulation for these shared party walls is better than that specified in Approved Document E and this should be specified in a condition.

5.52 Contaminated Land - The site was once a farm and fuels and chemicals for agriculture may have been stored on site. It is quite possible that asbestos containing materials that were once part of farm structures have impacted the soils on the farm. Overall, such use could have resulted in localised land contamination and therefore a full contaminated land condition is recommended for the application.

5.53 **Environmental Health (Air Quality):**

5.54 Comments 4/03/2016

Energy - Express detailed specifications for the proposed energy provision on site required. If a combustion plant is required set out emissions to air and demonstrate how NOx emissions will be minimised. Seek alternatives to combustion with emissions to air where possible.

5.55 Impact on AQMA - Operation traffic is not likely to impact on the AQMA. A minority of cars are likely to travel towards the AQMA. Therefore it is recommended that electromotive provision is included along the retaining wall of the basement car park. A Construction Environmental Management Plan will be required to set out how routes will avoid impacts on the AQMAs.

5.56 Introducing proposed residential to pollution, screened out as not a problem.

5.57 Comments 5/12/2016 following receipt of further information Recommends approval as approve of Electromotive ready wiring in the basement and no energy plant on site (as 2 metre roof top flue is not appropriate in planning terms

given open views of the South Downs National Park) but recommends that the Photovoltaic Array maximises surface area on buildings A, B and C in order to reduce emissions to air including oxides of nitrogen, particulate and CO2 and that individual gas boilers have wall mounted vertical flues and are ultra-low NOx.

5.58 Requests a CEMP condition that construction traffic avoids the AQMA to the south i.e. Neville Road-Old Shoreham Road-Sackville Road Quadrant and the Southern Cross junction between Locks Hill-Old Shoreham Road-Trafalgar Road.

5.59 **Flood Risk Management Officer:** Comments 24/02/2016 and 6/12/2016
Recommends approval as the Lead Local Flood Authority has no objections to the application subject to the inclusion of a condition regarding the detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods.

5.60 **Heritage:**
No objection 15/02/2016 The site is adjacent to the northern end of Three Cornered Copse which is part of the Woodland Drive Conservation Area. It is at a prominent intersection at the access to Hove and West Brighton from the A27. The historic buildings of the Woodland Drive Conservation Area are not visible from the site and vice versa.

5.61 The conservation area character statement states:

"The inclusion of the Three Cornered Copse within the conservation area is important as it provides an important green space to the buildings although the existence of the woodland walk is not evident from the road".

5.62 It is therefore included as a backdrop and green buffer to the historic buildings and this would not be altered by the proposed development at Court Farm on the other side of King George VI Avenue.

5.63 It is therefore considered that despite its proximity, the development will not affect the setting of the properties in Woodland Drive and it is not proposed to object to the development on heritage grounds.

5.64 Comments 24/11/2016 following receipt of amendments Do not wish to add any further comments to the original response.

5.65 **Housing Strategy:**
Comments 26/01/2016 The City-wide Housing Strategy adopted by Council in March 2015 has a priority 1 improving housing supply, with a commitment to prioritise support for new housing development that delivers a housing mix the city needs with a particular emphasis on family homes for Affordable Rent. The Council's published Affordable Housing Brief (up-dated October 2015) sets out the Council's preferences with regard to unit mix and design etc.

- 5.66 This scheme proposes to provide 74 properties on a site in Hove on the eastern side of the City. The proposal currently offers 30 affordable housing units which equates to 40 percent which is policy compliant, and as outlined in the Affordable Housing Brief.
- 5.67 This scheme currently offers affordable housing in the required proportions, providing 16 rental units and 14 for shared ownership sale (The schedule of Accommodation provided appears to show the 30 units divided as 18 rental units and 12 for shared ownership, which is also acceptable).
- 5.68 Affordable housing should not be visually distinguishable from the market housing on the site in terms of build quality, materials, details, levels of amenity space and privacy. The scheme design shows housing is all of the same standard and design.
- 5.69 Four wheelchair accessible flats are provided at this development which meets the Council's 10 percent requirement (of affordable units). These units consist of 3 flats (2 x 2 bed 3 persons and 1 x 2 bed 4 persons) for rent and 1 x 3 bed 5 persons for shared ownership sale. Wheelchair accommodation for rent is particularly welcomed.
- 5.70 The one bedroom proportion is slightly lower than the Affordable Housing Brief guidelines but with the provision of additional family size units this is acceptable.
- 5.71 Overall this proposed scheme meets housing requirements as outline in the Affordable Housing Brief.
- 5.72 Comments 23/11/2016 following receipt of amendments This scheme proposes to provide a total of 69 properties on a site in Hove on the eastern side of the city. The proposal currently offers 28 affordable housing units which equates to 40 percent which is policy compliant, and as outlined in the Affordable Housing Brief. This is a change to the original proposal of 74 units / 30 affordable.
- 5.73 This scheme currently offers affordable housing in the required proportions, providing 15 rental units and 13 for shared ownership sale.
- 5.74 Affordable housing should not be visually distinguishable from the market housing on the site in terms of build quality, materials, details, levels of amenity space and privacy. The scheme design shows housing is all of the same standard and design.
- 5.75 Four wheelchair accessible flats are provided at this development which exceeds the council's 10 percent requirement (of affordable units). These units consist of 3 flats (2 x 2bed3p and 1 x 2bed 4p) for rent and 1 x 3bed 5p flat for shared ownership sale. The Council's wheelchair accessible standard requires that it meets national technical standards Part 4 m (3)2a at build completion (i.e. at time of letting/sale). Wheelchair accommodation for rent is particularly welcomed.

- 5.76 The accommodation offered is very close to being Affordable Housing Brief compliant. The one bed and three bed units are down by one each - with the additional two units provided as two beds - which is acceptable.
This scheme meets the Affordable Housing Brief requirements with regard to the number of units, tenure mix and the unit size and type and is fully supported by Housing Strategy.
- 5.77 **Planning Policy:**
Comments 2/03/2016 There are significant planning policy concerns in relation to the level of development proposed on the site and its impact on the setting of the South Downs National Park; and the type of uses proposed on the site (housing only) as this is considered the most appropriate part of the Toad's Hole Valley for employment uses (in terms of amenity and accessibility).
- 5.78 The applicant should be invited to update the Planning Statement submitted in support of the application to address the following policy issues;
- How the proposal meets the requirements of policy DA7 in the City Plan in particular addressing the issue of delivering a comprehensive scheme for the site, impact of the proposal on the South Downs National Park and the issue of providing employment uses on the site.
 - Further information should also be provided on developer contributions alongside the scheme to meet the requirements of the policy.
- 5.79 Comments will be re-evaluated following the submission of updated information.
- 5.80 Comments 21/06/2016 following receipt of up-dated Planning Statement
Policy DA7 in the City Plan sets out the policy framework for future development of Toad's Hole Valley alongside other relevant policies. The policy seeks a mix of employment and residential uses on the site (with employment uses preferred close to the trunk road junction). The scheme as proposed is for housing only. This has been carefully considered against the policy framework and the s78 Inspector's appeal decision. In weighing up the policy issues relating to the site and proposal, alongside the benefit of providing housing in the city, it is considered that, on balance, where all other requirements are met (including noise mitigation, massing/visual impact and provision of developer contributions including training places) that a housing only scheme would be acceptable.
- 5.81 One key outstanding concern relates to the density of the development proposed on the site which is slightly above the upper end of the range of density allowed on the site. The primary concern is the consequent impact of the development in terms of height and massing on this visually sensitive location adjacent to the South.
- 5.82 Recommend grant subject to addressing the issue of visual impact/massing and appropriate developer contributions.
- 5.83 Comments 7/12/2016 following receipt of amendments These comments should be read alongside the comments made on 21 June 2016 on the original scheme. These comments still stand.

- 5.84 The revised proposal reduces the number of flats from 74 to 69. One of the key policy concerns in relation to the original scheme was the density of development on the site which was 76 dph. This was above the upper level of density considered acceptable for the site as a whole and was raised as a concern particularly in terms of the sensitivity of this elevated part of the THV site on the South Downs National Park.
- 5.85 The reduction in the number of units, which has been achieved by lowering the height of one of the blocks, lowers the density to approximately 68.5 dph which is now within an acceptable range of density for the site.
- 5.86 On this basis the proposal is now considered acceptable in policy terms.
- 5.87 **Private Sector Housing:** No Comments
- 5.88 **Public Art Officer:**
Comments 9/02/2016 To make sure the requirements of local planning policy are met at implementation stage, it is recommended that an 'Artistic Component' schedule, to the value of £39,000, be included in the section 106 agreement.
- 5.89 Comments 6/12/2016 following receipt of amendments To make sure the requirements of local planning policy are met at implementation stage, it is recommended that an 'Artistic Component' schedule, to the value of £36,500, be included in the section 106 agreement. This level of contribution is arrived at after the internal gross area of the development (6082sqm) is multiplied by a baseline value per square metre of construction arrived at from past records of Artistic Component contributions for this type of development in this area. This includes average construction values taking into account relative infrastructure costs.
- 5.90 **Sustainability Officer:**
Comments 29/02/2016 As a residential scheme, this development is expected under standards set out in City Plan Policy CP8 standards to achieve minimum energy and water standards. There is commitment for each dwelling to achieve the minimum energy and water efficiency standards (a reduction in carbon emissions of 19 percent against 2013 Part L Building Regulations requirements and 110 Litres/person/day).
- 5.91 A sustainability appraisal including SAP calculations (energy modelling) and specification of photovoltaic array proposals has been carried out and forms part of the application. The study was commissioned to enable the scheme to achieve Code Level 4 equivalents as required under CP8.
- 5.92 Policy DA7 - It is recommended that the applicant be asked if they can reconsider the potential for communal heating to be provided in the Court Farm development in order that there can be capacity for connection to any future heat network on the DA7 site. Policy DA7 sets out aspirations for exemplar sustainability standards to come forward in this development area. The

sustainability standards described in the application could not be described as exemplar, though they meet the basic standards of CP8.

- 5.93 Since the development area policy seeks standards above those for the rest of the City, it is recommended that in this case, conditions be used to secure those sustainability standards that are proposed.
- 5.94 In the event that communal heating system is installed in the buildings a condition regarding capacity to connect to future district heating should be attached.
- 5.95 Comments 6/12/2016 following receipt of further information Adopted Brighton and Hove City Plan Part One Policy CP8 requires that all development incorporate sustainable design features to avoid expansion of the City's ecological footprint, radical reductions in greenhouse gas emissions and mitigate against and adapt to climate change. CP8 sets out residential energy and water efficiency standards required to be met.
- 5.96 An additional report for Court Farm has been submitted: 'Preliminary Photovoltaic Array Sizing' (Delta Green). This explores the potential for including a communal heating system has been investigated to respond to policy DA7 and as requested by the Local Planning Authority in earlier comments, as such a system would present an opportunity to connect to off-site low carbon heat networks in the future.
- 5.97 The report determines the provision of individual gas boilers is the most viable heat solution currently and proposes individual efficient gas combi boilers for each dwelling. Reasons given for this include uncertainty over development of the rest of the site and whether a heat network would come forward.
- 5.98 There is very little information exploring how a communal heating system could be delivered and what impact if any this might have on the efficiency or carbon performance of the scheme which would have given a more comprehensive assessment of heating strategy.
- 5.99 The report also details SAP calculations completed for a sample of 13 dwellings (apartments) to determine the quantity of PV that is required to achieve a 19 percent reduction below the Part L TER CO2 emissions. Additionally the results show that a 73kWp photovoltaic array will be required in order for the development as a whole to achieve a 19 percent reduction below maximum permissible Part L CO2 emissions. A 73kWp array would have an area of approximately 467m²The modelling undertaken indicates that different dwellings will require PV provision of between 0.6 to 1.73kWp.
- 5.100 Furthermore the area of PV being proposed is slightly lower than 467sqm, at 459sqm. The report argues this will not affect output as the panels are high efficiency, and despite being sited at a less than optimal orientation are likely to achieve an equivalent performance. This is not a very scientific approach.

- 5.101 Since the dwellings aim to meet the standard expected for all dwellings in the City, (i.e. the minimum standard expected via policy CP8) the standard cannot be described as exemplary and therefore falls short of the aspiration for the site set out in the development Area policy DA7.
- 5.102 This additional report adds no benefit to the sustainability standards of the scheme, and therefore does not change comments made previously.
- 5.103 **Sustainable Transport Officer:** Comments 1/04/2016 and 26/05/2016 following receipt of amendments Recommend approval as the Highway Authority has **no objections** to the application subject to the inclusion of conditions relating to S278 Highway works, access road construction, retention of parking area, car park management plan, electric vehicle charging points, disabled parking and cycle parking in addition to the applicant entering into a S106 agreement for a contribution of £55,500, a travel plan, travel packs for each householder, sustainable travel voucher and a Construction Environmental Management Plan.
- 5.104 Comments 7/12/2016 following receipt of amendments The comments provided on an earlier version of this application have been updated to reflect subsequent amendments to the proposals, including the reduction from 74 to 69 units and car parking. It is also noted that the council's new car parking standards, SPD14, have recently been adopted. Additional proposals for landscaping on public highway external to the site have also assessed.
- 5.105 Recommend approval subject to the inclusion of conditions relating to S278 Highway works, access road construction, retention of parking area, car park management plan, electric vehicle charging points, disabled parking and cycle parking in addition to the applicant entering into a S106 agreement for a contribution of £51, 750, a travel plan, travel packs for each householder, sustainable travel voucher and a Construction Environmental Management Plan.

6. MATERIAL CONSIDERATIONS

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

- 6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- DA7 Toad's Hole Valley
- SA5 The Setting of the South Downs National Park
- SA6 Sustainable Neighbourhoods
- CP1 Housing Delivery
- CP7 Infrastructure and Developer Contributions
- CP8 Sustainable Buildings
- CP9 Sustainable Transport
- CP10 Biodiversity
- CP11 Flood Risk
- CP12 Urban Design
- CP13 Public Streets and Spaces
- CP14 Housing Density
- CP15 Heritage
- CP16 Open Space
- CP17 Sports Provision
- CP13 Public Streets and Spaces
- CP18 Health City
- CP19 Housing Mix
- CP20 Affordable Housing

Brighton & Hove Local Plan (retained policies March 2016):

- TR4 Travel Plans
- TR7 Safe development
- TR14 Cycle access and parking
- TR15 Cycle network
- TR18 Parking for people with disability
- SU3 Water resources and their quality
- SU5 Surface water and foul sewage disposal infrastructure
- SU9 Pollution and nuisance
- SU10 Noise Nuisance
- SU11 Pollution and nuisance control
- SU12 Hazardous substance
- SU15 Infrastructure
- SU16 Production of renewable energy
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD18 Species protection
- QD25 External lighting
- QD27 Protection of Amenity
- HO5 Provision of private amenity space in residential development

HO13 Accessible housing and lifetime homes
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste
SPD06 Trees & Development Sites
SPD11 Nature Conservation & Development
SPD14 Parking Standards

Planning Advice Notes:

PAN05 Design Guidance for the Storage and Collection of Recyclable
Materials and Waste

Developer Contributions Technical Guidance June 2016

8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the principle of the proposed development and its impacts on the visual amenities of the site and surrounding area, including the setting of the South Downs National Park and Woodland Drive Conservation Area. The proposed access arrangements and related traffic implications, impacts upon amenity of neighbouring properties, future occupiers' amenity, ecology, and sustainability impacts must also be assessed.

8.2 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.

8.3 Principle of Development

Policy DA7

Policy DA7 of the City Plan relates to both the application site (Court Farm which measures 0.97ha) and Toad's Hole Valley (THV), which is a large development area located to the south-west of the application site. The two sites together measure a total of 47 hectares. Policy DA7 states that these two development areas represent a major opportunity to create a model for mixed use sustainable development that will provide family and affordable housing, modern office space and a new school to meet the future needs of the City.

8.4 A previous application at Court Farm (ref: BH2012/03446) which sought permission for the demolition of the existing buildings and the construction of a 58 bed nursing home and 5 detached houses was refused by the Local Planning Authority in October 2013 on the basis the proposal would compromise the aims of policy DA7 in terms of timing, uses and density. The subsequent appeal Planning Inspector considered the main issue to be whether

the proposal was sustainable development against paragraph 14 of the NPPF and attached 'little less than significant weight to policy DA7'.

- 8.5 The appeal was allowed and the Inspector's conclusions in arriving at such a decision are a material consideration in determination of the current application. However it should be noted that since the appeal decision there has been a material change in planning circumstances. The City Plan Part One has been found sound and therefore its weight in determining planning applications has increased significantly. In addition the City Plan Inspector agreed a number of modifications to policy DA7 that need to be taken into account in considering the current proposal.
- 8.6 The preferred approach to development at the THV site is for a master-planning approach across the 47ha site as a whole to ensure that the site is developed efficiently and effectively and to make the best use of the site. The current proposal applicant only owns the 1ha Court Farm part of THV. Although the policy does not require the sites to be brought forward together it is considered important that the layout, design, access, uses and other impacts of the proposals complement one another representing the best use of the site as a whole while complying with the aims of the policy.
- 8.7 Work has also commenced on a Supplementary Planning Document (SPD) for THV (issues and options). The SPD aims to provide guidance to support the delivery of policy DA7 as a whole. It is considered important the proposal is consistent with and supports the future redevelopment of the wider site. Whilst it is acknowledged that the application relates to only a small proportion of the site, the proposal must be considered against the main aims of policy DA7 and other relevant policies.
- 8.8 The strategy for the development of the application site and THV, as set out in policy DA7, is 'to secure a modern, high quality and sustainable mixed use development to help meet the future needs of the City, improve accessibility and provide new community facilities to share with adjacent neighbourhoods'.
- 8.9 Policy DA7 sets out the principles for developing the site including strategies, main priorities, amount of development and open space to be delivered. The key elements of the policy are housing, offices, education, community and retail, environment, transport and travel and public realm and blue-green infrastructure.
- 8.10 In terms of housing the strategic allocation of policy DA7 at THV will secure a significant amount of new housing provision of which a significant amount will be family-sized accommodation and affordable housing. The policy requires at least 50 percent of the new housing to be family sized and the specified density range (of between 50 and 75 dwellings per hectare) should also enable the provision of a mix of housing types and sizes to achieve a choice in the range of housing at this location and ensure effective use of the site whilst recognising this an area of lower density compared to other development sites in the City Plan Part One.

8.11 It is acknowledge that the Court Farm site is the preferred location for employment uses in of policy DA7 (paragraph 3.90) as it has good access to the trunk road junction however the previous application appeal Inspector considered that residential development on the Court Farm site would be appropriate especially given that the previously proposed carehome represented an employment type use. Whilst the current proposal relates solely to the provision of residential accommodation the appeal Inspector considered that the employment requirements of policy DA7 could be fully met on the main part of the THV site and therefore overall is it considered that the lack of provision of employment within the current application is not be a sufficient reason to refuse the application especially where other planning concerns are met.

8.12 **Design/Layout/Visual Amenities**

The NPPF attaches great importance to the design of the built environment and identifies good design as a key aspect of sustainable development. This is reflected in policy CP12 of the City Plan Part One which seeks to raise the standard of architecture and design in the city. CP12 requires new development in particular to establish a strong sense of place by respecting the diverse character and urban grain of the city's identifiable neighbourhoods.

8.13 Layout of the Site

The site is immediately bounded on 3 sides by busy fast-moving roads and at the edge of the developed suburban boundary but beyond that is the natural undeveloped region of the SDNP.

8.14 The proposed development consists of 4 blocks of accommodation (with basement parking level to Block D). Block D would have an east to west orientation with Blocks A, B and C splayed from Block D (unconnected) in a southerly direction. It is stated within the application that the buildings have;

"been arranged so that they run parallel to the west, north and east site boundaries providing a buffer to the busy roads and augmenting the existing tree 'screens' while creating a sense of enclosure within the interior of the site".

8.15 The proposed buildings would be located approximately 15m apart at their closest points (the corners of the north facing flank elevations of Blocks A to B and B to C respectively) but orientated so that they are angled away from each other but the distance increases as you move southwards across the site and are typically over 25m apart.

8.16 The proposed access point to the development would utilise the existing Court Farm access from King George VI Avenue, located within the south-eastern corner of the site, however, as discussed in more detail below, this existing access would be altered to provide a two way access for vehicles and footpath provision for pedestrians.

8.17 Once accessed from the south-eastern corner the circulation within the site would be via vehicle and pedestrian links incorporated into open spaces between the proposed residential blocks. Pedestrian circulation would be

facilitated by dedicated pathways and landscape pedestrian routes across the central landscaped parts of the proposal, including soft landscaped amenity areas, such as between Blocks B and C.

- 8.18 The proposed layout would provide vehicle access to all the proposed ground level parking areas adjacent to the residential blocks and the basement parking below Block D, parking which would be accessible from other Blocks by external staircase within the central landscaped area between Blocks B and C.
- 8.19 In addition to the proposed communal landscaped areas between the blocks, private gardens would be provided to all ground floor units. Boundaries to the site would also comprise trees/shrubs. Landscaping of the proposal is discussed in more detail below.
- 8.20 Design of Proposed Buildings
The proposed ground floor levels of each block would match the existing ground levels and as a result a basement car park would be provided under Block D without the requirements for steep access ramps (access to the proposed basement car park would be via the road which is located on the eastern side of Block C).
- 8.21 Since submission of the application the proposal has been amended to remove the 4th/top floor from Block A in order to reduce the overall height of this Block, thus reducing its visibility from the surrounding area including parts of the adjacent SDNP.
- 8.22 The roofline of proposed Blocks B and C would step down from 4 to 3 storeys following the direction of the sloping terrain southwards. As such the proposal utilises the sloping topography of the site to generate a gradual stepping of the buildings. The roofs of the proposed Blocks would comprise bio diverse green roofs and solar panels.
- 8.23 As set out above, following an appeal, a development for a carehome and 5 dwellings was approved at the site. Plans have been submitted comparing the height of the development now proposed and that previously approved. These plans show that proposed Block D would be located closer to the boundary of the site adjacent to the roundabout but would be of an identical height. It is acknowledged that whilst the roof level of proposed Block A and the third floor roof level of Blocks B and C would be of the same height as the previously approved scheme the proposed fourth floor roof level of Blocks B and C would be approximately 2m higher than the height of the previous approved carehome. Whilst parts of the current proposal would be higher than that previously approved the areas of the development with an increased height would be located towards the centre of the site and, as set out above, would step down in height from north to south to reflect the topography of the site and surrounding area. It is recommended that Ordnance Datum heights are required by condition should overall the proposal be considered acceptable.
- 8.24 The proposal would have 2 distinct elevational treatments;

Outer/exterior - the outer elevations of Blocks A, D and C face out of the site towards the west, north and east, following the curve of the site boundary and surrounding roads. It is envisaged that the outer elevations of the buildings replicate the vertical rhythm of the trees with an applied screen of vertical fins, which would wrap around the site and would comprise of light grey facing brickwork with an applied screen of offset bronzed extruded aluminium fins fixed back to the elevations. It is stated that this hard treatment aims to provide a barrier from the noisy environment of the surrounding roads and to offer an sense of protection, and

Inner/interior elevations - these elevations face onto the enclosed, more tranquil green spaces. These elevations are stated to take reference from the downland chalk geology of the site. The predominant façade materials would be white textured multi-stock bricks with a variation in colour to reflect the appearance of exposed chalk.

- 8.25 The proposed development would comprise a palette of materials including 2 types of facing brickwork, recessed detail brickwork panel, light silver/grey PPC metal panel cladding, dark grey metal framed windows and bronze colour extruded aluminium fins. It is recommended that samples of all external finish materials are requested via a condition.
- 8.26 Since submission of the application further justification has been provided with regards to the design of the proposed outer elevations of the Blocks. Photographs of two completed developments have also been provided as examples of developments in which the aluminium fins have been incorporated, namely a development known as Sussex House in Crawley and a development in South Africa. It is stated that;
- 8.27 "Movement around the perimeter of the site would primarily be by vehicle. Observing the building from this perspective the façade will appear 'animated' as the views through the layer of aluminium fins contract and expand, giving glimpses of the layers of textured brickwork, glazing and metal cladding beyond, The aluminium fins are also intended to frame the long views of Brighton and Hove and the South Downs looking out from the windows, restricting the foreground views of the busy roads".
- 8.28 The design of the outer elevations including the use of the bronze fins is considered acceptable in this location.
- 8.29 Blocks A and D are arranged around 2 cores with separate entrances whilst Blocks B and C are single core buildings with two entrances to allow access from both side of the blocks.
- 8.30 Landscape and Visual Amenity Impacts
The site is adjacent to the northern end of Three Cornered Copse which is part of the Woodland Drive Conservation Area located to the east of the site, on the opposite side of King George VI Avenue. Policy HE6 of the Brighton and Hove Local Plan requires development within or affecting the setting of conservation areas to preserve and enhance the character and appearance of the area.

- 8.31 The Conservation Area character statement states:
- "The inclusion of the Three Cornered Copse within the conservation area is important as it provides an important green space to the buildings although the existence of the woodland walk is not evident from the road".
- 8.32 It is therefore included as a backdrop and green buffer to the historic buildings. It is considered by the Council's Heritage Officer that this would not be altered by the proposed development and that, despite its proximity, the proposed development would not affect the setting of the properties in Woodland Drive in term of heritage.
- 8.33 The site currently provides a green buffer between the current built up edge of Hove and the South Downs National Park. Following the adoption of the Brighton and Hove City Plan Part One, the site is now located within the built-up area of the City and therefore is not an urban fringe site.
- 8.34 The designation of the Toad's Hole Valley site for future development in the Brighton and Hove City Plan Part One would bring a built form and harder appearance to the location. As such it should be recognised that the application site would be viewed as developed and in the context of an adjacent developed THV and the wider City at some point in the future.
- 8.35 As the site is bounded to the north and east by the SDNP consideration should be given to potential impacts on landscape and visual amenity of the South Downs, which is a landscape of national importance.
- 8.36 Policies CP12 and SA5 of the City Plan requires developments to have due regard to the impact on the setting of the South Downs whilst policy CP12 seek to preserve or enhance strategic views into and out of the City.
- 8.37 Paragraph 109 of the NPPF requires development to contribute to and enhance the nature and local environment including by protecting and enhancing valued landscapes. In addition "Great weight should be given to conserving landscape and scenic beauty in National Parks [...], which have the highest status of protection in relation to landscape and scenic beauty" (paragraph 115).
- 8.38 The National Parks and Access to the Countryside Act 1949 imposes certain duties on local planning authorities, when determining planning applications in relation to, or affecting, National Parks. Specifically, s11A (2) of that Act, as inserted by s.62 of the Environment Act 1995, states:
- "In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park."
- 8.39 The purposes of National Parks, as set out in s5(1) of the 1949 Act, are:

- (a) Of conserving and enhancing the natural beauty, wildlife and cultural heritage of [National Parks]; and
- (b) Of promoting opportunities for the understanding and enjoyment of the special qualities of [National Parks] by the public."

8.40 As the proposed development is not sited within the National Park it is not considered that s5(1)(b) above applies in this instance.

8.41 As a result of the 1949 Act, in determining this application, regard therefore must be given to the statutory purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the SDNP. The proposed development's enhanced landscaping scheme, ecological enhancement measures and the assessment with regards to archaeology are referred to later in the report.

8.42 As part of the application a landscape and visual impact assessment (LVIA) has been submitted. The County Landscape Architect considers that this document provides an accurate baseline visual assessment of the site.

8.43 The conclusions of the submitted LVIA are that;

"Most of the long-term and permanent landscape and visual effects arising from the completed development would be neutral or beneficial".

8.44 Visual representations, from various viewpoints, have been provided as part of the LVIA showing visual representation of the site including the site as current, with the proposal as originally proposed and the proposal as amended. The County Landscape Architect considers that the wireframe visualisations accompanying the submission provide a comprehensive analysis of the potential visual impacts of the proposed development from key viewpoints.

8.45 It is noted that Block D, a 3 storey building, would dominate views from the roundabout and the immediate surrounding area however this block would be screened from wider views in the SDNP by the maturing roadside vegetation on the A27 and connecting slip roads.

8.46 It is considered that in the wider downland views the proposed 4 storey blocks would appear on the skyline as illustrated in the visualisations provided. The removal of the former top storey of Block A has resulted in a reduced impact from the wider downland when compared to the proposal as originally submitted.

8.47 Landscaping is discussed in detail below however it is noted that since submission of the application the proposed landscaping across the proposal has been revised to address comments made by the County Landscape Architect. The County Landscape Architect notes that the proposed landscaping retains existing large specimens, which would help to break up the impact of the flats on longer views from the surrounding downland in the long term.

- 8.48 Due to Court Farm being located at the highest point at the eastern end of THV, it is the most prominent part of the allocated development site and therefore it is noted that in the wider downland view the proposal would appear on the skyline above the existing urban edge and would be bulkier in form than the existing houses. The proposal would also create a built gate way feature at the entrance to the City especially prior to the development of the remainder of THV.
- 8.49 The County Landscape Architect acknowledges that the most significant visual impacts would be in a localised area surrounding the roundabout and this would change the interface between the rural and urban area in this location. The proposal has been revised since submission to include planting that would, in the long term, help reduce the scale of Block D when viewed from the road and therefore alleviate the localised impacts of the proposal and to help enhance the gateway into the City.
- 8.50 Overall the proposal is considered to be of an acceptable form, height, scale and design and with conditions to control the detailed elements of the design, including landscaping mitigation on the northern and eastern boundaries, it is considered that the proposal would enhance the urban rural interface in this location and would not have a significant adverse impact upon the conversation or enhancement of the adjacent SDNP's natural beauty.
- 8.51 **Accommodation Provision/Standard of Accommodation**
The provision of 69 new residential units would make a welcome contribution to the City's housing requirements and to the Council's five year supply of deliverable housing sites in accordance with the NPPF and CP1 of the City Plan Part One.
- 8.52 The proposed units would be allocated across the site as follows;
- Block A - 25 flats (1, 2 and 3 bed),
 - Block B - 14 flats (1, 2 and 3 bed),
 - Block C - 14 flats (1, 2 and 3 bed), and
 - Block D - 16 flats (2 and 3 bed).
- 8.53 City Plan policy CO19 requires developments to improve housing choice and ensure that an appropriate mix of housing (in terms of housing type, size and tenure) is achieved across the City. The proposal would provide a mix of 7 x 1 bed (10 percent), 34 x 2 bed (49 percent) and 28 x 3 bed (41 percent) properties, a mix which is considered acceptable.
- 8.54 The proposed units would provide the following size accommodation;
- 1 bedroom (for up to 2 persons) between 51m² and 53m² (GIA),
 - 2 bedroom (for up to 3 persons) between 68m² and 83m² (GIA),
 - 2 bedroom (for up to 4 persons) between 76m² and 99m² (GIA),
 - 3 bedroom (for up to 5 persons) between 90m² and 110m² (GIA),and
 - 3 bedroom (for up to 6 persons) between 100m² and 122m² (GIA).

- 8.55 Whilst the Local Planning Authority does not have adopted space standards for comparative purposes the Government's recent Technical Housing Standards - National Described Space Standards March 2015 document sets out recommended space standards for new dwellings, the proposed flat sizes set out above exceed the minimum standards set out in this document.
- 8.56 In accordance with City Plan policy CP20 28 (40.5 percent) of the proposed flats would provide affordable housing for rent and shared ownership. The affordable housing would provide a mix of 7 x 1 bed (25 percent), 15 x 2 bed (54 percent) and 6 x 3 bed (21 percent) units, a mix which is considered acceptable.
- 8.57 It is noted that Block A would contain entirely affordable housing units and the majority (89 percent) of the total 28 proposed affordable housing units. However in accordance with policy CP20 the proposed affordable housing would not be visually distinguishable from the market housing on the site in terms of build quality, materials, details, levels of amenity space and privacy.
- 8.58 The Citywide tenure mix objective for affordable housing provision is 55 percent affordable rent and 45 percent shared ownership. The proposed affordable housing tenure split in the proposal is 54 percent affordable rent and 46 percent shared ownership and is therefore considered acceptable.
- 8.59 Policy HO13 requires all new residential units to be Lifetime Homes compliant, with 5 percent of all units in large scale schemes, such as that proposed, to be wheelchair accessible. 4 of the proposed ground floor apartments within block A are designed to be wheelchair accessible, in compliance with policy HO13. The submitted Schedule of Accommodation shows that three of these wheelchair accessible units would be 2 bed (for three and four person occupancy) whilst one would be a 3 bed unit (for five person occupancy).
- 8.60 Policy HO13 also requires all other residential dwellings in a development, that are not wheelchair accessible, to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards M4(2) within the national Optional Technical Standards, standards which can be ensured via the attachment of a condition.
- 8.61 As a result of the design and orientation of the proposed Blocks, the proposed windows in each flat would not directly face other windows, rather window to window views would be offset and/or at oblique angles. In addition the minimum distance between any two facing windows would be in excess of 15m.
- 8.62 As part of the application a Design Sunlight and Daylight Study has been submitted, which takes into account the BRE guidelines. It is concluded within the submitted report that;
- 8.63 *Sunlight* - The report states that only 7 of the proposed flats would have living rooms facing north-west whilst no dwellings would have living rooms facing north or north-east. As such all proposed units would meet BRE guidelines, with

90 percent achieving BRE recommendation that main windows wall faces 90 degrees of due south and that those dwellings with windows not within 90 degrees of due south achieving BRE recommendation of being able to take advantage of an appealing view, which is deemed a compensating factor.

- 8.64 *Daylight* - It is stated within the submitted report that the proposal has been designed so that the orientation and elevation of each block, as well as the flat layout and window positions, maximise the potential for daylight within the rooms. A majority of the proposed living rooms have more than one window and more than one aspect. All window head heights would be 2.4m above finished floor level and all living rooms have generous full height windows opening onto balconies, terraces or private gardens.
- 8.65 The proposal comprises of recessed and projecting balconies. At ground floor none of the units have recessed windows and therefore are at the edge of the building footprint and have unobstructed views above. The two proposed units with rooms that would be located under projecting balconies (flats A02 and A05) would benefit from a second window (unobscured) to the associated room.
- 8.66 To ensure that daylight levels would be satisfactory across the proposal an indicative average daylight studies were made of 7 sample units across the first floor of the 4 blocks. The sample units were chosen as they are at the lowest floor level which would have recessed balconies. The living/kitchen/dining rooms contain the recessed balconies and also represent onerous spaces in terms of recommended daylight values. It is assumed in the report that if these sample rooms could achieve the recommended daylight values then the rest of the units would achieve even higher values.
Based on the Average Daylight Factor calculations it is concluded in the report that the rooms would achieve an average daylight factor of 2 percent or more for living rooms and kitchens as recommend by the BRE guidelines.
- 8.67 Noise
As part of the application a Noise Assessment has been submitted, an assessment which builds on a previous assessment of the site undertaken with respect of application BH2012/03446, with an additional survey carried out during April 2015. The survey results were then used in a noise model.
- 8.68 The survey results indicate that provided the windows of the future residential premises are closed, internal noise conditions would satisfy BS8233:2014. However, if windows to the premises facing the roads around the scheme are open, then these standards would not be achieved, therefore a suitable ventilation scheme is required. As the exact details of the development are yet to be fully established the details for a suitable glazing and ventilation scheme for the site should be required by a condition.
- 8.69 The Council's Environmental Health Officer has noted that proposed habitable rooms, including bedrooms, would share party walls with bike stores, bin stores and plant rooms. These uses have the potential to cause air borne and structure borne noise and vibration problems in adjacent residencies. As a result the Environmental Health Officer requests that sound insulation for these shared

party walls is better than that specified in Approved Document E, an issue which can be dealt with via a condition if overall the proposal is considered acceptable.

8.70 Amenity, Open Space and Recreation Provision

Under policy CP16 of the City Plan new development is expected to contribute towards open space provision optimising additional on-site/off-site good quality open space provision in accordance with the local standards and, where there are shortfalls, to financially contribute towards existing open spaces in order to meet the needs generate by the development.

8.71 A plan has been submitted that shows the location of the following open space provision;

- Communal open space - 240sqm,
- Public Open Space - 1600sqm,
- Communal wildlife/ecology garden - 110sqm
- Communal vegetable/herb garden - 95sqm, and
- Private open space - 1230sqm.

8.72 At ground floor level all of the proposed units would have an area of private garden, typically to the rear of the block, while some have both front and back gardens. Above ground floor level all proposed units would have access to a private balcony with a minimum depth of 1.5m.

8.73 The spaces around Block B and between Blocks B and C would provide communal shared amenity space of soft and hard landscaping, including benches and an informal play space. Blocks A and D would have semi-private shared external space to the rear. The spaces 'outside' of the high level garden walls between Blocks A and D and Blocks D and C respectively would be communal shared amenity spaces accessed via full height gates from the shred surface in front of Block D. It is stated that the space to the west would be an ecology garden providing dedicated space for indigenous species found along the South Downs whilst the space to the east would provide a vegetable or herb garden which residents could grow items in raised planting beds.

8.74 A play space for small children is proposed as an informal undulating landscape within the centre of the site. It is stated that this area was chosen as it would benefit from being within the landscaped central area between Blocks B and C, away from the vehicle access routes and having good natural surveillance from the surrounding residential blocks.

8.75 In recognition that development schemes will seldom be capable of addressing the whole open space requirement on a development site, a contribution towards the provision of the required space on a suitable alternative site is recommended in order to address the requirements of policy CP16. In this case the contribution required towards recreation open space would be £193, 702.54, a contribution which takes into account the proposed areas across the site listed above.

8.76 Impact upon Neighbouring Amenity

Policy QD27 of the Brighton and Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

8.77 Outlook and Privacy

The nearest existing neighbouring residential properties to the site are located to the east of the site on the opposite side of King George VI Avenue. These neighbouring dwellings would be located at a considerable distance from the nearest flank wall of the proposal and as such it is not considered that the development would have a significant adverse impact upon the amenities of the southern neighbouring properties, including with regards to outlook, overlooking or loss of privacy.

8.78 It is considered that the separation distances to the south-western boundary, the orientation of the proposed development and the location of primary windows ensures that the proposal would not impact in the ability of the owner of the remainder of the THV site to design a scheme that provides for both commercial and residential development and as such would not prejudice development to the south-west of the site.

8.79 With the exception of the land to the south, the site is bounded by the A27 to the north and west and King George VI Avenue to the east. Further to the north are open downland and the SDNP. Accordingly there are no immediate neighbours to the north, west or south.

8.80 It is noted that within the submitted Planning Statement it is stated that Block A, which is the block that would be located closest to the boundary with the rest of THV site, has been "designed so that only secondary windows face the shared boundary". No details of any obscured glazing is shown on the plans submitted with respect of these proposed secondary windows and it is acknowledged that balconies would provide views towards the shared boundary. However given the distance between the proposed southernmost facing window and the boundary with the rest of THV and the fact that the southern facing windows/balconies would be angled onto the boundary overall it is not considered that the inclusion of windows or balconies that would provide south-west facing views towards the rest of Toad's Hole Valley would have an adverse impacts upon the amenities of any future development of the rest of THV.

8.81 Daylight/Sunlight/Overshadowing

Due to the distance between the proposed development and the nearest neighbouring properties located on the eastern side of King George VI Avenue it is not considered that the proposal would have a significant adverse impact upon the amenities of neighbouring properties with regards to daylight, sunlight or overshadowing.

8.82 **Sustainable Transport**
Strategic Road Network

The site is adjacent to the A27 (a strategic road network) and as such the application has been assessed by Highways England. Whilst Highways England do not entirely agree with the methodology contained within the applicants Transport Assessment submitted as part of the application, it is concluded that the proposal would have little impact on the safe operation of the A27 and as such do not object to the proposal.

8.83 Vehicle Access

The proposal would result in an alteration to the existing vehicular access on to King George VI Avenue. Such alteration is consistent with the previous application, reference BH2012/03446, which was allowed on appeal and to which the Highway Authority raised no objection.

8.84 The existing access currently allows single file operation and the proposal seeks to upgrade it to provide two way access and footway provision for pedestrians. In comments on the previous application the Highway Authority requested that the design incorporates a right turn lane, this has been retained.

8.85 It is noted that the Stage 1 Road Safety Audit submitted alongside the earlier 2012 application has been resubmitted. This does not raise any major issues and the designer's response states that these will be addressed on detailed designs which will be subject to a Stage 2 Road Safety Audit. The submitted audit does cover a previous version of the design, not incorporating the required right turn lane; however the Highway Authority does not raise any objections in that the submitted Stage 1 Audit does not question the principle of an access of the nature purposed in this location.

8.86 A S278 agreement is required, ensured via a condition should the proposal be overall considered acceptable, through which process the applicant would be required to submit detailed design drawings alongside the Stage 2 Road Safety Audit.

8.87 Pedestrian Access

It is welcomed that the Highway Authority's comments on the 2012 application regarding pedestrian routes to the site have been incorporated into the current proposal. This includes the provision of a 2m wide footway leading into the site from the western side of King George VI Avenue, together with the widening and hard surfacing of the existing footway on the eastern side. This would connect the site to the wider pedestrian network to the south which includes the bus stop on King George VI Drive/Woodland Avenue. Such works should form part of a S278 agreement.

8.88 However, the site still lacks pedestrian access to the north and west (Dyke Road Avenue). The proposal for 69 residential units is likely to generate a greater demand for pedestrian trips in all directions than the consented scheme (for a care home and 5 residential dwellings). This would include the SDNP as well as Westdene Primary School, local nurseries and local amenities.

8.89 Dyke Road Avenue is also served by the 27 bus route, which provides a more frequent service than the 21 which serves King George VI Drive. Stops on Dyke

Road Avenue for the 27 route are located approximately 450m from the development site and therefore within walking distance of the site and with a more frequent service, likely to be an alternative option for many residents.

- 8.90 It is recommended that a transport contribution be sought in order to fund improved connections towards Dyke Road Avenue, which can be secured via a S106 agreement.
- 8.91 It is noted that no allowance has been made for future connections to the south of the site and the wider development of Toad's Hole Valley. However it is considered that there would be scope to extend the proposed footway on the western side of King George VI Avenue in future whilst the absence of buildings on the southern boundary of the proposed development would appear to allow for pedestrian routes to be established in future, which preferably would connect to desire lines within site, including the proposed communal space.
- 8.92 Internal Access Road
The proposed internal access road would divide immediately after the site access with the main route serving the majority of the surface-level parking bays and the second arm serving the proposed basement car park.
- 8.93 Whilst the width of the access road varies it is considered to be of a width sufficient for two cars to pass and consistent with Manual for Streets recommendations for lightly trafficked, low speed roads such as proposed. It would narrow in places including to the south of the communal garden (3.4m) however given the number of parking spaces that it would serve (34) and the consequent light traffic volumes, the Highway Authority does not object to short section of single-file operation as it is not considered that queues would build up to such an extent that they would have a problematic impact. On the contrary, the proposed section to the south of the communal garden is considered likely to assist in calming traffic entering the site and is in keeping with Manual for Streets principles.
- 8.94 A number of pedestrian routes are proposed. There are areas where the alignment would benefit from being adjusted to better serve pedestrian desire lines rather than run parallel to access roads. There appears to be scope within the landscape plan to accommodate such movements. The width of many of the proposed pathways is relatively narrow and would benefit from being widened, which could be accommodated.
- 8.95 The need for pedestrians to cross the road a short distance from the site access is not ideal given that this is where vehicles would be entering the site. Although the landscape plan shows use of a range of materials, it is recommended that treatments such as rumble strips on the entry to the site be incorporated to distinguish this area as being different to a traditional carriageway arrangement and also encourage lower vehicle speeds where pedestrians are likely to be in the carriageway. It is also considered that some form of priority to users of the basement car park access would manage conflict and assist pedestrians in crossing.

- 8.96 It is assumed that the proposed road would remain as private and that the applicant is not offering it up for adoption. The Highway Authority recommends that further details on the construction and design of the proposed internal road and pedestrian routes are secured via condition to address the issues raised.
- 8.97 The submitted Transport Statement indicates that provision has been made for refuse vehicles to enter and exit the site in a forward gear. The submitted swept paths indicate that it is indeed possible for such vehicles to manoeuvre and turn on site, though the layout would mean that a refuse vehicle is unable to service the north-east of the site or the access road to the basement car park without reversing. The Highway Authority does not consider that refusal for this reason is warranted. The Council's City Clean Department has also reviewed the submitted swept paths and consider them to be acceptable and as such that the reversing distances required are satisfactory.
- 8.98 Car Parking
Since submission of the application SPD14 on Parking Standards has been adopted (October 2016), which superseded the former SPG on Parking Standards.
- 8.99 107 car parking spaces are proposed split between a basement car park and surface level parking. This represents a relatively high level of provision of 1.6 cars per household and, as a result of the reduction in units, slightly exceeds the maximum level permitted by SPD14 which allows one space per dwelling plus one space per two dwellings for visitors in this location (104 spaces). However, it is expected that a small number of spaces would be lost in order for the applicant to accommodate the disabled parking comments below and as such no objections are raised.
- 8.100 The recommended level of provision would be consistent with the average car ownership according to the 2011 Census for lower output area 007B (bounding King George VI Avenue to the south east of the site) which indicates a car ownership of 1.6 cars per household. However, flats typically have a lower level of car ownership and, although the proposed development includes 28 three-bedroom flats, the site has the potential to have a lower level of car ownership than the area average. It is expected therefore that the proposed provision will mean that overspill parking beyond the site is minimal. Similarly, it is not expected that substantial informal parking within the site would occur.
- 8.101 The Sustainable Transport Officer states that it would be beneficial for a greater proportion of parking to be located at basement level but the proposed arrangement is not considered to warrant a reason for refusal. Notwithstanding this, the proposed layout of the parking is generally acceptable from a usability perspective, with the Transport Statement including swept paths for the basement car park. Access to spaces adjacent to Core 2 (as annotated on the proposed lower ground floor plan) appears to be constrained however it is noted that the layout is similar to those adjacent to Core 1 (as annotated on the proposed lower ground floor plan) for which swept paths have been provided. Given the level of parking proposed, were spaces to be underutilised as a result,

it is not considered that this would result in substantial levels of overspill parking within or beyond the site.

8.102 Disabled Parking

Four disabled parking spaces are provided at surface level. The applicant is proposing four wheelchair accessible units and is providing one space per unit which would be compliant with SPD14. In assessing the design of disabled parking, the Highway Authority applies 'Traffic Advisory Leaflet 5/95 Parking for Disabled People' which specifies a 1.2m access zone on both sides of the bay, although this can be shared between adjacent bays. There is ample scope to adjust the proposed parking layout to provide a compliant design and it is not considered, for the reasons stated above, that there would be an adverse impact from a small reduction in the total number of standard parking spaces that may be necessary as a result. It is considered that revised disabled parking to address the issues raised can be dealt with via a condition.

8.103 Other Parking

The provision of motorcycle parking areas and electric vehicle charging points (as set out in the Transport Statement paragraph 4.9) is welcomed and it is recommended that further details of such provision could be secured via a condition.

8.104 It is requested by the Transport Officer that details of how the proposed car park would be managed is secured by a condition. Such details should include whether spaces would be allocated to individual dwellings and, if so, details of allocation for visitors.

8.105 Cycle Parking

26 short stay and 106 long stay cycle parking places are proposed as part of the development. Such facilities would be provided by means of a mixture of secure stores within each residential block and external stands spaced in groups throughout the site.

8.106 SPD14 requires a total of 120 spaces (one space per 1-2 bedroom unit (=41), two spaces per 3+ bedroom unit (=56) and one per three units for visitors (=23).

8.107 The proposed level of provision is therefore compliant with SPD14.

8.108 The design of the external stands appears to be by means of Sheffield stands or similar, which is the favoured design of the Highway Authority. The design of the proposed cycle storage within the internal stores is unclear and further details would be required via a condition if overall approval is recommended.

In order to comply with Brighton and Hove Local Plan policy TR14 cycle parking should be secure, well-lit, convenient to access and, wherever possible, sheltered.

8.109 Trip Generation/S106/ Travel Plan

The submitted Transport Statement forecasts that the proposed development would increase trip generation associated with the site however it does not take

account of any existing trip generation by existing uses on the site and it is stated to be a robust assessment of the worst case scenario as a result.

- 8.110 Based on the information submitted as part of the application (including TRICS database calculations and comparisons with the consent scheme) the Highway Authority considers that there would be an increase in trips across the day however it is not considered that the additional increase in vehicle trips during peak periods would warrant a reason for refusal were the applicant to implement appropriate mitigation in order to improve access between the site and local amenities by sustainable modes.
- 8.111 Should the proposed development be allowed a contribution of £51,750 would be sought which would be allowed as follows;
- Real Time Passenger Information, accessible bus stops and bus shelters on King George VI Drive/Woodland Avenue; and/or,
 - Pedestrian route improvements between the site, Dyke Road Avenue and bus stops on Dyke Road Avenue; and/or,
 - Provision of accessible kerb (and relocation of shelter as necessary) and Real Time Passenger Information at Tongdean Land southbound bus stop on Dyke Road Avenue; and/or
 - Provision of accessible kerb at Tongdean Lane northbound bus stop on Dyke Road Avenue.
- 8.112 The expansion of measures is in order to address the concerns with pedestrian access discussed above and to reflect the fact that a residential use would be expected to generate trips to a greater range of destinations with increased potential for these to be undertaken on foot.
- 8.113 The above measures are in addition to the measures that are included in the application (site access and highway works on King George VI Avenue) discussed above. Such measures could be secured via a S278 agreement.
- 8.114 It is acknowledged that a Travel Plan Framework has been submitted as part of the application however, in order to encourage the use of sustainable modes it is recommended that this Framework is revised to a Full Travel Plan. The outline content of the submitted Plan is generally acceptable and the proposed residential Travel Packs would be welcome and as expected for a development of the nature proposed. It is however considered that additional measures are required in order to encourage new residents to try out sustainable modes. This takes into particular account the location of the site and level of proposed car parking.
- 8.115 These measures should specifically include a sustainable travel voucher for each household (comprising of a £200 cycle voucher and 3 month bus ticket. Such provision, alongside welcome packs and travel plan, could be secured as part of a S106 agreement should overall the proposal be considered acceptable.
- 8.116 **Arboriculture/Landscaping**

The Council's Arboriculturist has assessed the application and notes it is in a very exposed location, high up and above the A27. The site is dominated by young plants (mostly just off site) associated with the construction of the bypass. This existing planting is quite small and not long established but is of some value. Being a windswept location any new plants would experience some difficulty with establishment. The Council' Arboriculturist has therefore stated that it is important to protect existing perimeter trees ahead of any development work.

- 8.117 The site contains no trees of any individual public amenity value but collectively they form important groups or woodland strips principally to the north between the existing buildings and the bypass and slipway. There is broad agreement by the Council's Arboriculturist with the content of the initial Arboricultural Assessment which notes the onset of Ash Dieback within parts of the woodland area. This should be given consideration to when selecting species for any future planting scheme.
- 8.118 Should the proposal be granted permission the Council's Arboriculturist would expect the perimeter planting located just off site to be retained and protected during the course of the development as it will afford some protection to any new trees planted as part of an approved landscaping scheme.
- 8.119 Since submission of the application the proposed landscaping plan has been amended to address concerns raised by the County Landscape Officer with regards to localised impact of the proposal and as such planting is proposed adjacent to the public highway. The Council's Transport Officer understands that such planting is proposed to address non-transport issues but questions the public benefits of such planting and as such would prefer, where possible, that all or some of the proposed additional planting be provided within the site.
- 8.120 It is not considered that refusal based on the Transport Officer concerns regarding the proposed landscaping outside of the site boundary is warranted given that final landscaping details, including tree planting, would be required via a condition if overall the proposal is considered acceptable and therefore revised planting details could be agreed.
- 8.121 The roofs of the development would be bio-diverse green roofs, stated to help recreate the inclined vegetated nature of the site when combined with the extensive proposed tree, lawn and shrub planting.
- 8.122 **Archaeology**
Policy HE12 of the Local Plan relates to scheduled ancient monuments and other important archaeological sites. The policy states that development proposals must preserve and enhance sites known and potential archaeological interest and their setting.
- 8.123 The proposed development is of archaeological interest due to its scale and location in close proximity to a number of prehistoric and Romano-British sites, including human burial sites. The application is not accompanied by a heritage statement however it appears from the topographic plan that a large section of

the site has not been subject to recent ground reduction or significant disturbance and therefore there is potential for below ground archaeological remains to survive on the site.

8.124 The County Archaeologist recommends that, as a result of the potential loss of heritage assets on the site, the area affected by the proposal should be subject to a programme of archaeological works, an issue which can be dealt with via the attachment of a condition should overall the proposal be considered acceptable.

8.125 With regards to s5(1)(a) of the 1949 Act previously discussed, subject to the compliance with the recommended conditions it is considered that the proposal would help to conserve and enhance the cultural heritage in the adjacent SDNP.

8.126 Ecology/Biodiversity/Nature Conservation

Policy CP10 of the City Plan requires developments to conserve existing biodiversity, to provide net gains wherever possible and to contribute positively to ecosystem services. SPD 11 provides further guidance regarding nature conservation and development.

8.127 The site currently comprises buildings, hardstandings, broad leaved woodland, amenity grassland, semi-improved grassland, species poor and partially non-native hedgerows, tall ruderal vegetation and introduced and native shrub.

8.128 The County Ecologist has assessed the proposal and has stated that the surveys submitted as part of the application have been carried out in accordance with best practice and are sufficient to inform appropriate mitigation. The County Ecologist also considers that due to the nature, scale and location of the proposed development there are unlikely to be any significant impacts on any sites designated for their nature conservation interest.

8.129 Bats

With regards to bats no evidence of roosting bats has been identified on site, although it is considered that two of the buildings to be demolished retain at least moderate bat roost potential. It is therefore recommended that a precautionary approach is taken to demolition of these buildings and that bat boxes should be provided on site to mitigate for the loss of the existing buildings.

8.130 Artificial light can negatively impact on bats and therefore it is recommended that all lighting design should take account of national best practice guidance. The recommendations regarding lighting set out in the Preliminary Roost Assessment and Reptile Survey Report (paragraph 4.25) are considered appropriate.

8.131 Reptiles

In terms of reptiles the site supports breeding populations of common lizard and slow worm. Given the peak numbers of animals recorded and the area of suitable habitat present, the County Ecologists states that it should be assumed that the site supports medium populations of both species.

8.132 The proposed design means that the populations cannot be retained on site and so will need to be translocated to a suitable receptor site. The County Ecologist states that the outline mitigation strategy provided as part of the application is broadly acceptable however it should be noted that the recommended minimum capture effort for medium populations of common lizard and slow worm is all suitable days between March and September or a full year. The County Ecologist also notes that the submitted report states that the animals will be translocated to a 'designated receptor area' within the City however such a site is no longer available. The Ecologists however states that it may be possible to identify a site where reptile habitat could be created for a commuted sum.

8.133 The Ecologist requests that any permission be subject to a Grampian condition whereby no work can start until a Reptile Mitigation Strategy, including the identification of a suitable receptor site with secured long term management, has been agreed.

8.134 **Birds**

The site has the potential to support breeding birds. In order to avoid disturbance to nesting birds, any demolition of buildings or removal of scrub/trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist and if any nesting birds are found, advice should be sought on appropriate mitigation.

8.135 **Sustainability**

Adopted Brighton and Hove City Plan Part One 2016, Policy CP8 requires that all development incorporate sustainable design features to avoid expansion of the City's ecological footprint, radical reductions in greenhouse gas emissions and mitigate against and adapt to climate change.

8.136 CP8 sets out residential energy and water efficiency standards required to be met:

- Energy efficiency standards of 19 percent reduction in CO2 emissions over Part L Building Regulations requirements 2013. (Equivalent to energy performance of Code for Sustainable Homes Level 4).
- Water efficiency standards of 110 litres/person/day (equivalent to water performance standards from outgoing Code for Sustainable Homes to Level 4).

8.137 Policy DA7 relates specifically to Toads Hole Valley/Court Farm and sets out the strategy for this designated area.

8.138 The local priorities to achieve this strategy are:

- That the site is used efficiently and effectively to assist in meeting the development and infrastructure requirements of the city.

- The development will aim to be an exemplary standard in terms of environmental, social and economic sustainability, achieving a One Planet approach and promoting the city's UNESCO Biosphere objectives.
- 8.141 The proposals will be assessed against the citywide policies and the following criteria:
- Environmental sustainability will be central to the design and layout of the scheme which will be expected to meet the requirements of policy CP8.
 - Development within this area will aim to incorporate infrastructure to support low and zero carbon decentralised energy and in particular heat networks subject to viability and deliverability.
- 8.142 Since submission of the application an additional report has been submitted in order to respond to the requirements of Policy DA7. Whilst it is noted that the Sustainability Officer states that the submitted report adds no benefit to the sustainability standards of the scheme and that the sustainability standards of the proposal falls short of the aspirations for the site set out in policy DA7, it is noted that the proposal would meet the water and energy standards expected for new dwellings in the rest of the City, standards which can be ensured via a condition, and as such it is not considered that refusal on this basis could be justified.
- 8.143 The proposal would also provide enhanced fabric performance and renewable energy technology, would use sustainable materials and materials from local sources and would comprise bio diverse green roofs and space for a communal vegetable garden.
- 8.144 Details of refuse storage and collection have been submitted as part of the application. Refuse and recycling storage would be provided in the kitchen areas of the proposed residential units in addition to secure, enclosed spaces at ground floor level adjacent to main entrances. It is stated that internal drainage gully and louvred doors would allow the stores to be easily maintained and ventilated. The positioning of such storage facilities regarding refuse vehicle collection is discussed above in the transport section of this report.
- 8.145 The scheme also has the scope to accommodate composting or food waste bins in the communal garden/semi-private landscaped areas.
- 8.146 Sustainability standards and refuse/recycling storage facilities can be ensured via conditions if overall the proposal is considered acceptable.
- 8.147 **Other Considerations**
Construction Environmental Management Plan
 Due to the scale of the development proposed and its location adjacent to the strategic road network, a Construction Environmental Management Plan is requested. Such plan should ensure that the construction traffic avoids the Portslade Air Quality Management Area. A CEMP can be secured via a S106 Agreement.
- 8.148 Flood Risk and Water Drainage

Policy CP11 of the City Plan relates to managing flood risk and requires the management and reduction of flood risk and any potential adverse effects on people or property in the City, in accordance with the findings of the Strategic Flood Risk Assessment.

8.149 As part of the application a Sustainable Drainage and Flood Risk Assessment has been submitted. The Council's Flood Risk Management Officer has assessed the proposal and associated document and has no objections to the development subject to a condition requiring the submission and approval of a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods.

8.150 The Environment Agency has raised concerns regarding risk to groundwater should piling or any other foundation designs use penetrative methods however it is considered that such issue can be dealt with via a condition.

8.151 Land Contamination

The site was once a farm and therefore it is considered that fuels and chemicals for agriculture may have been stored on site. It is quite possible that asbestos containing materials that were once part of farm structures have impacted the soils on the farm. Such former use could have resulted in localised land contamination and therefore conditions regarding land contamination are requested by both the Council's Environmental Health Officer and the Environment Agency, if overall the proposal is considered acceptable.

8.152 **Developer Contributions**

8.153 Public Art/Realm

City Plan Policy CP5 supports investment in public realm spaces suitable for outdoor events and cultural activities and the enhancement and retention of existing public art works, policy CP7 seeks development to contribute to necessary social, environmental and physical infrastructure including public art and public realm whilst policy CP13 seeks to improve the quality and legibility of the City's public realm by incorporating an appropriate and integral public art element. An 'artistic component schedule' could be included as part of a S106 agreement, to the value of £36,500, if overall the proposal is deemed acceptable, in order to ensure that the proposal complies with the stated policies.

8.154 Education

Should the development be considered acceptable, a contribution of £117,029 towards the cost of providing secondary and sixth form education infrastructure in the City, for the school/college age pupils the development would generate, has been requested by the Education Officer. This contribution accords with the Council's Developer Contributions Guidance and takes into account the existing property on the site, which is of a size that could provide family accommodation and therefore generates an existing education need.

8.155 Local Employment Scheme

Should the application be approved, the Developer Contributions Technical Guidance provides the supporting information to request a contribution, through

a S106 agreement, to the Local Employment Scheme in addition to the provision of 20 percent local employment for the demolition and construction phases. In this instance a financial contribution of £25,800 would be sought. This required contribution takes into account the existing dwelling located on the site.

9. EQUALITIES

9.1 The scheme would provide 28 units/40 percent affordable housing (15 units/54 percent for Social/Affordable Rental and 13 units/46 percent for Intermediate Affordable Housing).

9.2 If overall considered acceptable conditions are proposed which will ensure compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and that 5 percent of the overall development would be built to Wheelchair Accessible Standards.

9.3 S106 HEADS OF TERMS

- 40 percent affordable housing (54 percent for affordable rental and 46 percent for shared ownership),
- A contribution of £36,500 towards an Artistic Component / public realm
- A contribution of £117,029 towards the cost of providing secondary (£97,540) and sixth form education (£19,489);
- A contribution of £25,800 towards the Local Employment Scheme,
- Construction Training and Employment Strategy including a commitment to using 20 percent local employment during the demolition and construction phases of the development,
- A Construction Environmental Management Plan,
- A Transport Contribution of £51,750,
- A Residential Travel Plan
- A long-term management and maintenance plan for the proposed public/communal open space areas, and
- A contribution of £193,702 towards open space and indoor sport.

ITEM C

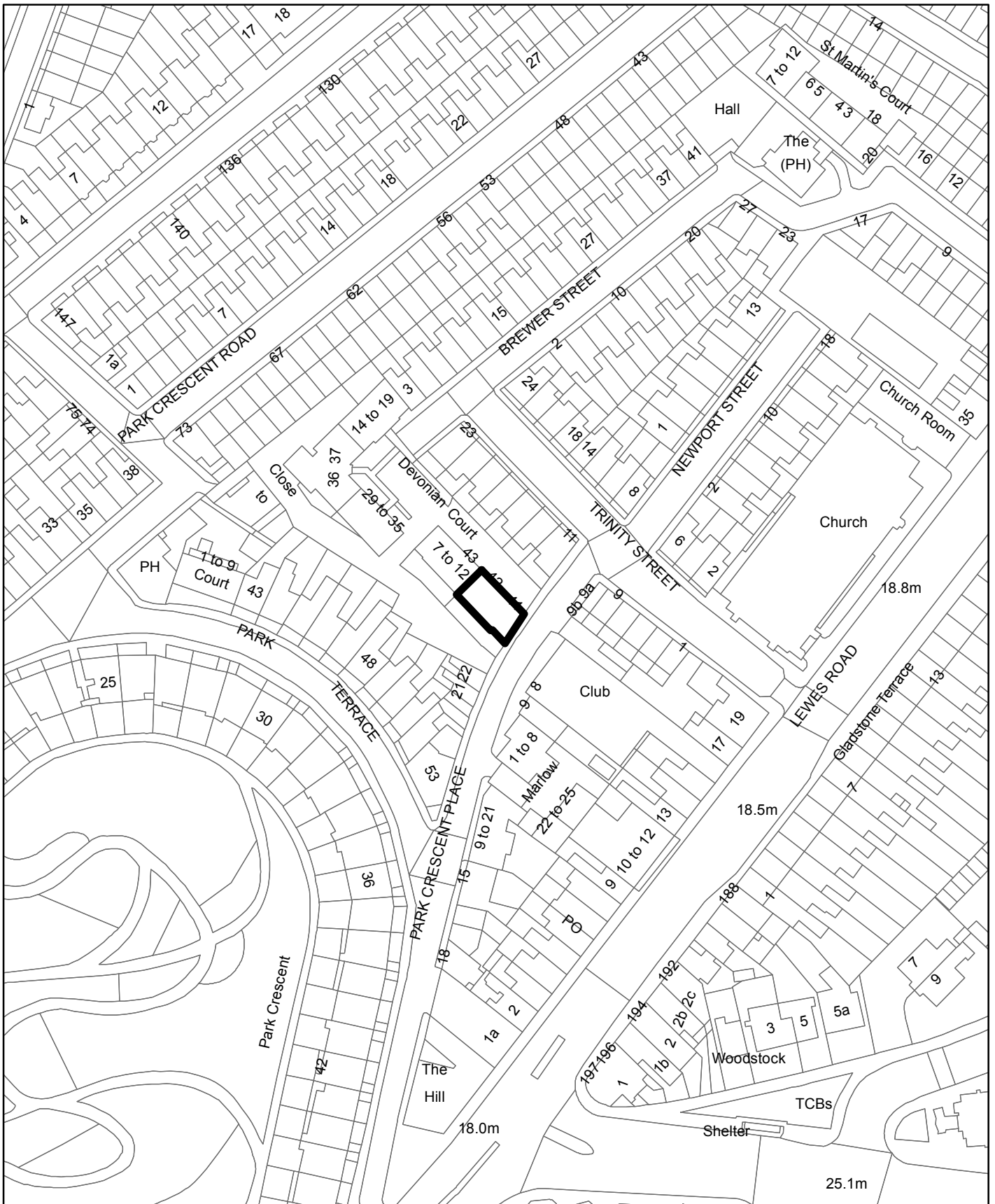
**Devonian Court, Park Crescent Place,
Brighton**

BH2016/02742

Full planning

11th January 2017

BH2016-02742 Devonian Court, Park Crescent Place, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/02742	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	Devonian Court, Park Crescent Place, Brighton, BN2 3HG		
<u>Proposal:</u>	Planning permission is sought for variation of condition 2 of application BH1998/01631/FP (Removal of suspended paved area to expose basement elevation (Blocks 1 & 2) to facilitate conversion to 7 no. flats. Replacement pitched roof (Blocks 1 & 2) and use of roofspace to provide 6 no. flats, revised parking area for 12 cars and landscaping.) to allow amendments to the fenestration and layout of the proposed mansard extension to Block 2.		
<u>Officer:</u>	Chris Swain, tel: 292178	<u>Valid Date:</u>	26.07.2016
<u>Con Area:</u>		<u>Expiry Date:</u>	25.10.2016
		<u>EoT/PPA Date</u>	
<u>Listed Building Grade:</u>			
<u>Agent:</u>	NRAS 11 Tiler's Close Nutfield Road Merstham RH1 3HS		
<u>Applicant:</u>	Witnessham Ventures Ltd Mr Monk Claydon Hall Claydon Ipswich IP6 0EL		

1. RECOMMENDATIONS

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location Plan	(INCLUDING SECTIONS)	(exclude s Block 2)	16 March 1999
Block Plan	(ACCESS AND CAR PARKING)		16 March 1999
Floor plans/elevations/sect proposed	BLOCK 1	(exclude s Block 2 plan)	16 March 1999
Floor Plans Proposed	DC/16-10		14 December 2016
Elevations Proposed	DC/16-20		22 July 2016

- 2 The development shall be constructed in accordance with the approved details of Condition 3 of BH1998/01631FP submitted in application BH2015/00654, approved 4 June 2015.

Reason: To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton and Hove City Plan Part One and policy QD14 of the Brighton and Hove Local Plan.

- 3 The cycle parking facilities shall be retained in situ for the use of the occupiers of the development.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. **SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 This application relates to Devonian Court, two four storey blocks of flats on a site to the rear of properties on Park Crescent Terrace, Park Crescent Road and Trinity Street, with entrances to both Park Crescent Road and Brewer Street.
- 2.2 Planning permission is sought for variation of condition 2 of application **BH1998/01631/FP** (Removal of suspended paved area to expose basement elevation (Blocks 1 & 2) to facilitate conversion to 7 no. flats. Replacement pitched roof (Blocks 1 & 2) and use of roofspace to provide 6 no. flats, revised parking area for 12 cars and landscaping.) to allow amendments to the fenestration and layout of the proposed mansard extension to Block 2.
- 2.3 It is noted that the basement flats have been constructed and occupied. A mansard roof containing three flats has been constructed replacing the pitched roof to Block 1.

3. **RELEVANT HISTORY**

BH2015/00654 - Application for Approval of Details Reserved by Condition 3 of application **BH1998/01631/FP**. Approved 4 June 2015.

BH2015/00726 - Non Material Amendment to **BH1998/01631/FP** to raise the parapet line to conceal gutters and window cills and restrict overlooking, substitution of slates to Marley Rivendale and revision of window material to grey UPVC. Refused 1 April 2015.

BH2014/01363 - Erection of additional storey to facilitate creation of 3no two bedroom flats (C3). Refused 3 September 2014.

BH2001/00505/FP - Amendment to **BH1998/01631/FP** to create additional (3rd) flat to roofspace of block 1 (adjacent to Park Crescent Place), together with installation of dormers and rooflights to all elevations. Approved 4 December 2001.

BH1998/01631/FP - Removal of suspended paved area to expose basement elevation (Blocks 1 & 2) to facilitate conversion to 7 no. flats. Replacement pitched roof (Blocks 1 & 2) and use of roofspace to provide 6 no. flats, revised parking area for 12 cars and landscaping. Approved 21 April 1999. This permission was part implemented with the basement works and the converted loft space to the southernmost block completed.

4. REPRESENTATIONS

4.1 Eleven (11) letters have been received from **3, 5, 7, 15 Brewer Street, 9 Trinity Street, 21 Park Crescent Place, 5 Devonian Court and 46 Park Crescent Terrace, 65, 67, 71 Park Crescent Road** objecting to the proposed development for the following reasons:

- Loss of privacy / overlooking to adjoining properties and gardens,
- Increased noise and disturbance from the development and also the addition of 12 car parking spaces,
- Inappropriate appearance,
- Overshadowing, loss of natural light,
- Additional littering / fly tipping on the site and adjoining roads,
- Additional vehicular movements,
- Cannot determine whether 'Ancient Lights' can be invoked,
- Increased parking stress on neighbouring roads,
- The proposal is out of character,
- Unsatisfactory disabled access,
- Concerns over damage to party walls during construction,
- The landlord has failed to adequately maintain the block resulting in an eyesore and the appearance of a tenement slum,
- Overbearing impact,
- The building would be taller than adjoining properties,
- Increased light pollution,
- Potential for increased rubbish on the wider site, attracting vermin and resulting in a public health concern.
- Many of the properties are owned by landlords who may not have received letters that were addressed to the occupier making objections less likely,
- The proposals could result in harm to human health,
- The additional vehicular parking would further increase the serious air pollution which an issue within the area,
- Neighbouring properties were not consulted on previous applications for additional units and roof extensions to Devonian Court,
- No wheelchair access for upper flats.

5. CONSULTATIONS

5.1 **Southern Water:** No objection

5.2 **Sustainable Transport:** No objection

The Highway Authority would not wish to restrict grant of consent of the above application. It is not considered that Condition 2 and the proposed amendments have highways and transportation implications.

It is recommended that conditions 5 (cycle parking) and 6 (car parking) be carried forward to any revised consent.

6. MATERIAL CONSIDERATIONS

6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

6.2 The development plan is:

Brighton & Hove City Plan Part One (adopted March 2016)

Brighton & Hove Local Plan 2005 (retained policies March 2016);

East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);

East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP8 Sustainable buildings

CP9 Sustainable transport

CP12 Urban design

Brighton & Hove Local Plan (retained policies March 2016):

TR4 Travel plans

TR7 Safe Development

TR14 Cycle access and parking

SU10 Noise nuisance

QD15 Landscaping

QD14 Extensions and alterations

QD27 Protection of amenity

HO5 Provision of private amenity space in residential development

Supplementary Planning Documents:
SPD03 Construction & Demolition Waste
SPD12 Design Guide for Extensions and Alterations
SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations material to this application are the impacts of the proposed residential units on the character and appearance of the building and the streetscene, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, and sustainability and traffic issues.
- 8.2 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.3 **Planning History:**
Planning permission was granted in 1999 (BH1998/01631FP) for roof extensions to both blocks and works to the basement to create a number of additional self-contained flats. The basement flats were constructed and occupied within the original time limit for implementation and it is considered that this planning permission is extant.
- 8.4 A mansard roof containing three flats has been constructed to Block 1.
- 8.5 **Design and Appearance:**
The overall design, height and form of the mansard proposed to the L-shaped Block 2 would replicate the mansard to Block 1 within the extant scheme. Where the proposal would differ is in the treatment of the fenestration. The size, design, number and siting of dormers and rooflights proposed would be revised in comparison to the extant scheme.
- 8.6 Whilst the overall number of dormer windows proposed is greater than on the extant scheme, these are not as deep as the dormers in the proposed scheme and the overall impact on the appearance and character of the building is considered to be neutral. The increased numbers of rooflights proposed would not result in unnecessary clutter and are considered to have an acceptable visual impact.
- 8.7 The site is located a sufficient distance from Park Crescent and St. Martins Church to ensure that there is no harm to the setting of these listed buildings or harm to the Valley Gardens Conservation Area to the south west.

8.8 Overall the proposal is considered to have an acceptable impact upon the appearance and character of the block, the application site and the wider surrounding area.

8.9 **Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

8.10 Whilst the proposed scheme includes an increased number of dormers and rooflights over and above the extant scheme, many of the rooflights serve bathrooms and are obscure glazed whilst the dormers are reduced in scale in comparison to the extant scheme. The mansard roof is also set back from the lower elevations and overall the proposal is not considered to result in any significant harm to neighbouring properties in regards to overlooking or loss of privacy. The height, scale and mass of the proposal is unchanged from the extant scheme and would not result in any increased harm by way of overshadowing, loss of light or an overbearing impact.

8.11 **Standard of accommodation:**

The internal layout of the 4 flats has been altered with separate kitchens and living areas replaced with a combined kitchen / dining / living area. Three of the four flats have also been revised from two to three bedroom units. Whilst some of the bedrooms are an awkward shape with limited floor area the overall standard of accommodation is considered to be comparable to that provided for in the extant permission with adequate levels of light, outlook, internal floor area and circulation space and the proposal is considered to be acceptable in this regard.

Whilst outdoor space has not been provided in accordance with HO5 the site is located close to an area of public open space (the Level) and the lack of outdoor space provided is not so significant as to warrant refusal.

8.12 **Sustainable Transport:**

The proposal raises no new concerns relating to transport. A condition to retain the cycle parking facilities is proposed.

9. **EQUALITIES**

9.1 None identified.

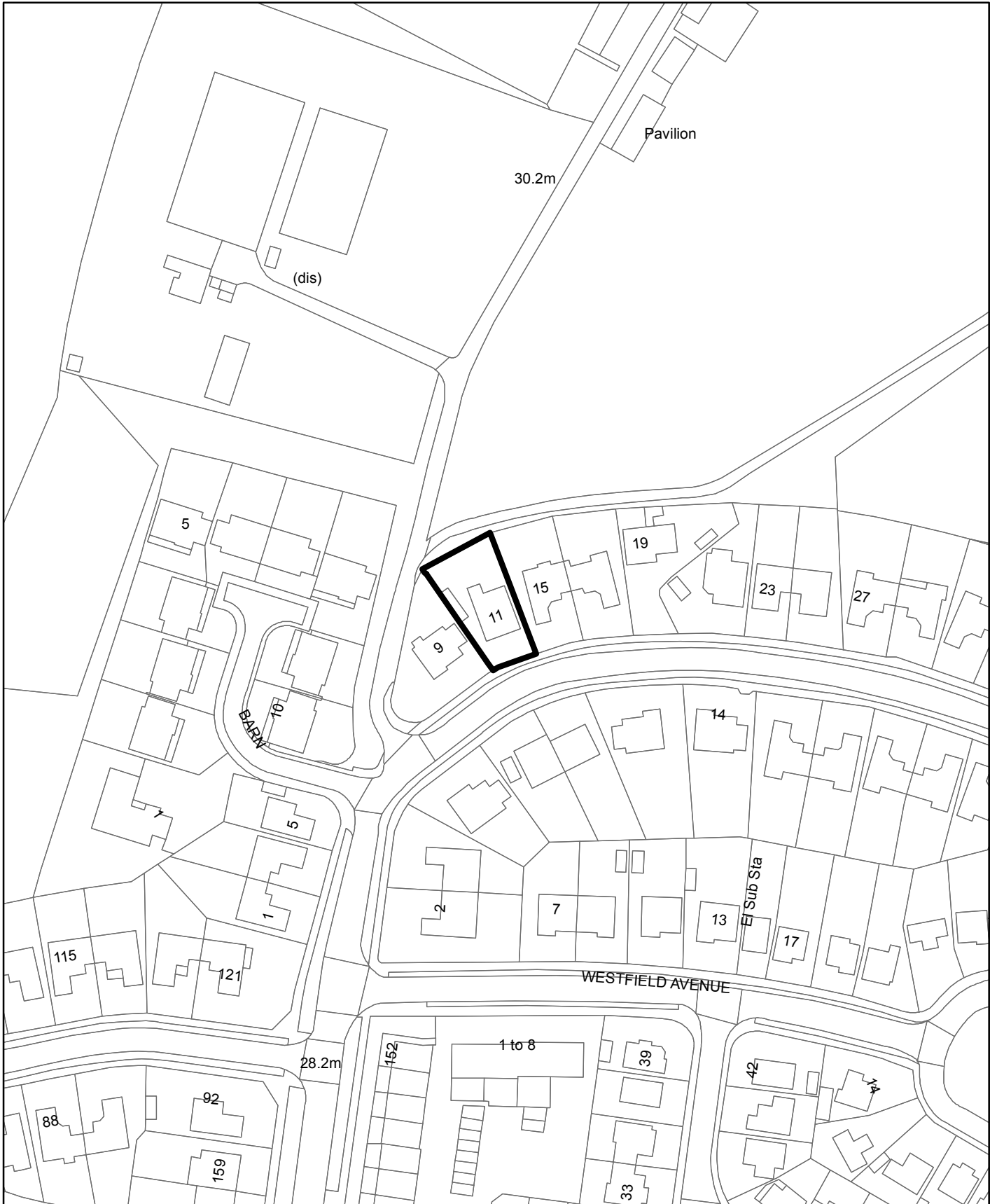
ITEM D

11 Coombe Vale, Brighton

BH2016/02377

Householder Planning Consent

11th January 2016



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/02377	<u>Ward:</u>	Rottingdean Coastal Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	11 Coombe Vale, Saltdean, Brighton, BN2 8HN		
<u>Proposal:</u>	Roof alterations incorporating hip to barn end roof extensions, rear dormers, front rooflight and front and side windows and erection of front porch extension		
<u>Officer:</u>	Charlotte Bush, tel: 292193	<u>Valid Date:</u>	08.07.2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	02.09.2016
		<u>EoT/PPA Date</u>	
<u>Listed Building Grade:</u>			
<u>Agent:</u>	Stephen Bromley Associates West Sussex BN43 5WF	5 West Street	Shoreham-by-Sea
<u>Applicant:</u>	Mr A White 11 Coombe Vale Saltdean Brighton BN2 8HN		

This application was deferred at the last meeting on the 14/12/2016 for a site visit

1. RECOMMENDATION

1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **REFUSE** planning permission for the following reasons:

- 1 The proposed scale, bulk, form and overall design of the proposed scheme would appear as over-dominant addition that is out of character with the surrounding streetscene. As such, the proposal would have a detrimental impact on visual amenity and the character and appearance of the wider area and is contrary to policy QD14 of the Brighton & Hove Local Plan and Supplementary Planning Document 12: 'Design Guidance for Extensions and Alterations'.
- 2 The proposed rear dormer, by reason of its size and design, would appear as incongruous feature which is unsympathetic to the character and appearances of the host building and the wider streetscene; contrary to policy QD14 of the Brighton and Hove Local Plan and Supplementary Planning Document 12 'Design Guide for Extensions and Alterations'
- 3 The proposed roof extension would result in increased overshadowing to No.15, contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan and Supplementary Planning Document 12 'Design Guide for Extensions and Alterations'

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on

this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. This decision is based on the drawings received listed below:

Plan Type	Reference	Version	Date Received
Floor plans and elevations proposed	10667-1-19-9-16		21 September 2016

2. SITE LOCATION & DESCRIPTION

- 2.1 The site relates to a detached bungalow to the northern side of Coombe Vale. Coombe Vale is prominently comprised of bungalows of a similar style to the host property.

3. RELEVANT HISTORY

BH2016/00828 - Roof alterations incorporating hip to barn end roof extensions, rear dormers, front rooflight and front and side windows and erection of front porch extension. Refused 10.05.2016

Reason for refusal:

1. The proposed scale, bulk, form and overall design of the proposed scheme would appear as over-dominant and out of character with the surrounding streetscene. As such, the proposal would have a detrimental impact on visual amenity and the character and appearance of the wider area and is contrary to policy QD14 of the Brighton & Hove Local Plan and Supplementary Planning Document 12: 'Design Guidance for Extensions and Alterations'.
2. The proposed roof extension would result in an unacceptable loss of light and increased overshadowing to No.15, contrary to policies QD14 and QD27 of the Brighton & Hove Local Plan and SPD12 guidance.

BH2011/03005 - Erection of conservatory extension to side. (part retrospective). Approved 31/10/2011

BH2011/02365 - Certificate of Lawfulness for proposed conservatory to side. Refused 04/10/2011

4. CONSULTATIONS

- 4.1 **Seven (7)** letters have been received from the occupiers of **99 Rodmell Avenue, 15 Coombe Vale (x4), 9 Oakland Avenue and 9 Coombe Vale**, objecting to the proposed development on the following grounds:

- It is too big and obtrusive and will dwarf neighbouring properties.
- The proposed scheme will overshadow No.15 and reduce natural light entering the windows.
- The rear window will reduce privacy to neighbouring properties
- This planned development will be too large for the street

- This scheme would allow others to develop their bungalows, thereby completely changing the appearance of the area.
- Having looked at the local housing market there is no shortage of 4 bedroom homes in Saltdean in all price ranges without the need to change the profile of Coombe Vale.
- This build is too big for the street, and the people who think it has been done sympathetically to the neighbours are not the ones who have to live with a major obstruction blocking the light alongside their house.
- The supporters of this scheme, especially the support from the house in Coombe Vale, maybe looking to extend their home. Approval for this application would set a precedence for this type of extension in the area.
- People come to live in Saltdean because of the architecture of a small seaside village, not large houses everywhere.

4.2 **9 Coombe Vale** subsequently withdrew their objection.

4.3 **Five (5) letters** have been received from the occupiers of **80 Tummulas Road, 50 Lustrells Crescent, 25 Nutley Avenue (x2), 16 Coombe Vale**, supporting the application for the following reasons:

- Development of bungalows in Saltdean is common and is a necessity for families with children and growing families as there are not enough houses in the area.
- Not allowing development drives families out of the area and will ultimately have a negative impact
- The scheme is well designed and considerate to neighbouring properties.
- The proposed scheme is sympathetic to the surrounding properties and will significantly enhance the street scene.
- The proposed scheme is well designed and will fit in with the other properties in the area.
- There are many bungalows and houses in Saltdean which have been developed or extended in various different styles, and this proposal is in keeping with other properties in the area and will not look out of place.
- With the improvements being made to the local area and investment into the Lido it is important to try and encourage young families to stay within Saltdean so they can enjoy the facilities for years to come

4.4 **Councillor Mary Mears** has written in support of the application. A copy of the email is attached to this report.

5. **RELEVANT POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

Brighton & Hove Local Plan (retained policies March 2016):

QD14 Extensions and alterations

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

6. CONSIDERATIONS & ASSESSMENT

6.1 The main considerations in the determination of this application relate to the impact of the proposed development upon the character and appearance of the property and the wider surrounding area. Furthermore the effects upon the residential amenity of the neighbouring properties must also be assessed.

Revised plans 10667-1-19-9-16 for this application were received on the 21/09/2016 in response to comments from the Local Authority and neighbours were consulted on these revised plans. The main differences between the schemes comprise:

- The overall bulk of the original proposed scheme was considered excessive. The two storey front projection shown on plans 100667-1,7-6a was amended to a single bay window, with window above on plans 10667-1-19-9-16
- The original plans 100667-1,7-6a house three individual dormers to the rear which were considered acceptable. These have been altered to a large box dormer on the rear as shown on plans 10667-1-19-9-16. This increases the bulk at the rear of the property.
- The single storey rear extension on amended plans 10667-1-19-9-16 has been reduced in height by 0.4 metres.

6.2 The application will be determined by assessing the revised plans 10667-1-19-9-16.

6.3 Policy QD14 of the Brighton & Hove Local Plan states that planning permission for extensions or alterations to existing buildings, including the formation of rooms in the roof, will only be granted if the proposed development:

- a) Is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area;
- b) Would not result in significant noise disturbance or loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties;
- c) Takes account of the existing space around buildings and the character of the area and an appropriate gap is retained between the extension and the joint boundary to prevent a terracing effect where this would be detrimental to the character of the area; and:-
- d) Uses materials sympathetic to the parent building.

6.4 In considering whether to grant planning permission for extensions to residential and commercial properties, account will be taken of sunlight and daylight factors, together with orientation, slope, overall height relationships, existing boundary treatment and how overbearing the proposal will be.

6.5 Design and Appearance

- 6.6 Coombe Vale is predominantly comprised of modest detached single storey residential properties with hipped front elevations. This creates a rhythm in the streetscene, and a consistent roofline roof which would ideally be maintained.
- 6.7 The proposed scheme is for remodelling the existing hipped roof bungalow with single storey front projection, to a two storey house with barn end roof and two storey front projection and single storey front projection.
- 6.8 The proposed scheme is considered to be an improvement on the previous application **BH2016/00828**, and addresses some of the concerns that were raised. The barn-end styled roof has a stronger pitch to reduce the bulk of the proposed first storey and reduce the impact on neighbouring properties. The asymmetrical front projection proposed on application **BH2016/00828** has also been amended.
- 6.9 However, the proposed scheme is still significantly larger in scale than the existing property and the surrounding properties. The width of the proposed roof extension when viewed from the front is at odds with roofs of the existing property and the surrounding properties which are steeply pitched. This would look out of place in the street scene as there would be an over dominant, bulky two storey property surrounded by single storey bungalows with hipped roofs. SPD12 states that 'the original design of the building and its setting (including the general character of the street/area) should form the primary influence on the design of any extension or alteration.'
- 6.10 Additionally, the proposed rear dormer, occupying a large proportion of the roof, is not considered acceptable in design terms. SPD12 guidance states that 'box dormers constructed using the full width (and/or height) of the roof are an inappropriate design solution and will not be permitted as they give the appearance of an extra storey on top of the building. Dormer windows should instead be kept as small as possible and clearly be a subordinate addition to the roof, set appropriately in the roof space and well off the sides, ridge and eaves of the roof.' The proposed scheme fails to meet this criteria and would appear as an over dominant, incongruous and bulky addition, and is contrary to SDP12 guidance and policy QD14 of the Brighton and Hove Local Plan.
- 6.11 While there are some examples of inappropriate roof extensions in the surrounding area, no precedent has been established. SPD12 Guidance states that 'The presence of inappropriate roof alterations in the street will not be accepted as evidence of an established precedent.' This position is supported by the Planning Inspectorate (appeal ref: APP/Q1445/A/08/2089171, 26 Cowper Street). In the Cowper Street case, which involved the creation of a room in roof with rear dormer and front rooflights, the Inspector considered that 'the proposed dormer would be similar to those already present on the two neighbouring properties. However, these are the only two properties in the terrace with dormers of this type, and I do not see them setting a precedent of any significant weight in favour of allowing a proposal that would be clearly contrary to the development plan. Indeed, their appearance - and that of the other similar dormers that I saw on other nearby terraces - only serves to

reinforce my view that such extensions are, in essence, unsightly and harmful to the area's character.'

- 6.12 The bulky appearance of the proposed dormer is exacerbated by the large areas of cladding to the side of the windows, contrary to SPD12 guidance: 'The supporting structure for the dormer window should be kept to a minimum as far as possible to avoid a "heavy" appearance and there should be no large areas of cladding either side of the window or below. As a rule of thumb a dormer should not be substantially larger than the window itself unless the particular design of the building and its context dictate otherwise.'
- 6.13 The rear dormer would appear as an incongruous addition, which is unsympathetic to the host property and the wider streetscene. The proposed scheme would fail to conform with SPD12 guidance and is contrary to policy QD14 of the Brighton and Hove Local Plan.
- 6.14 Overall, although the plans have been amended from the original scheme to reduce the bulk of the proposed roof, the current scheme is still deemed represent a bulky addition and would appear excessive in scale, unattractive and discordant with the existing property and surrounding streetscene, and is therefore considered unacceptable in design terms.
- 6.15 **Impact on Amenity**
- 6.16 Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 6.17 The properties most likely to be affected by the proposed development are No.9 and No. 15 Coombe Vale.
- 6.18 No.9 Coombe Vale:
No.11 is set at a higher land level to No.9. However, the impact on overshadowing, reduced light and privacy is not considered to be significant due to the distance between the two properties.
- 6.19 No.15 Coombe Vale:
The plans have been amended from planning application BH2016/00828 to address concerns raised over the impact on the occupiers of No. 15. The reduced width of the roof at the top is considered to reduce the impact on the neighbouring property, and the submitted drawings attempt to demonstrate that the proposal would meet the 45 degree rule of light entering the side windows.
- 6.20 Nevertheless, as the application site is located close to the boundary to No.15. there is still increased potential for overshadowing the side garden and western elevation of No.15 which houses a principle bedroom window and a secondary window and door to the kitchen.

6.21 The proposed scheme is considered to cause harm to neighbour amenity and is therefore contrary to policy QD27 and QD14 of the Brighton & Hove Local Plan and SPD12 guidance, and is recommended for refusal.

7. EQUALITIES

7.1 Submitted information regarding the reasoning and purpose for the application has been taken into consideration and given due weight in the determination of the submission.

ITEM E

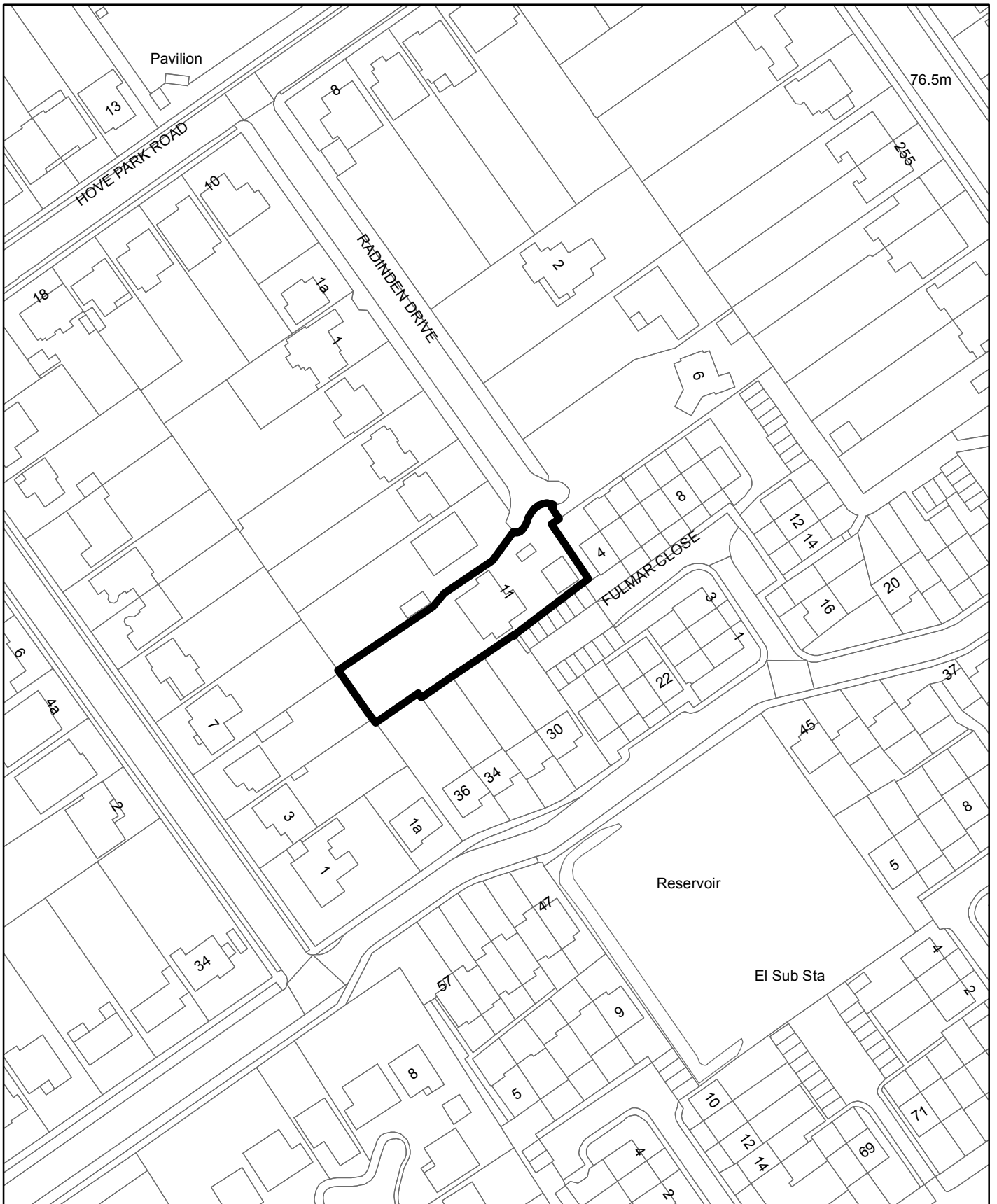
11 Radinden Drive, Hove

BH2016/00448

Full planning

11th January 2016

BH2016-00448 11 Radinden Drive, Hove



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/00448	<u>Ward:</u>	Hove Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	11 Radinden Drive, Hove, BN3 6LB		
<u>Proposal:</u>	Erection of replacement detached dwelling house (C3) with associated landscaping.		
<u>Officer:</u>	Joanne Doyle, tel: 292198	<u>Valid Date:</u>	04.03.2016
<u>Con Area:</u>		<u>Expiry Date:</u>	29.04.2016
		<u>EoT/PPA Date</u>	19.12.2016
<u>Listed Building Grade:</u>			
<u>Agent:</u>	C-Architecture Limited 67 Church Road Hove BN3 2NB		
<u>Applicant:</u>	Dr Steve Leung 11 Radinden Drive Hove BN3 6LB		

This application was deferred at the last meeting on 14/12/16 for a site visit.

1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Existing Floor Plans and Elevations	202-E001A (SITE AND BLOCK PLAN)	-	22 November 2016
Streetscene elevation proposed	202-E002C (EXISTING)	-	12 December 2016
Floor Plans Proposed	202-SK003J (SITE AND BLOCK PLAN)	-	22 November 2016
Elevations Proposed	202-SK004G	-	12 December 2016

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

- 3 The residential unit hereby approved shall not be occupied until it has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).

- Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the City Plan Part One.
- 4 The residential unit hereby approved shall not be occupied until it has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the City Plan Part One.
- 5 The dwelling hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.
Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
- 6 If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the Local Planning Authority. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
- 7 The windows in the North West elevation of the development hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan and policy CP12 of the City Plan Part One.
- 8 Prior to the first occupation of the development hereby permitted the privacy screens to each side of the rear first floor level terrace shown on the drawings hereby approved shall be installed and thereafter permanently retained as such.
Reason: In order to protect adjoining properties from overlooking and to comply with policy QD27 of the Brighton & Hove Local Plan and policy CP12 of the City Plan Part One.
- 9 Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 10 The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
- 11 No development shall commence until full details of existing and proposed ground levels (referenced as Ordinance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the City Plan Part One.
- 12 All hard surfaces shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy CP11 of the City Plan Part One.
- 13 No extension, enlargement, alteration or provision within the curtilage of the of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.
Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 14 No development above ground floor slab level of any part of the development hereby permitted shall take place until samples and details of materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including:
- a) Samples of all render and tiling
 - b) Details/specifications of windows and doors
 - c) Details/specifications of privacy screens

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies CP12 of the City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site relates to a detached dwelling, located on the south west side of Radinden Drive at the end of the cul-de-sac. The property is bounded by the detached properties on Radinden Drive to the North, the terraced properties on Fulmar Close to the East, the terraced properties on The Martlet to the South and the detached properties on Orpen Road to the west. The property is two storeys and is constructed in brick work with a tiled roof and upvc fenestration. The property has a full width flat roof rear addition with brick steps leading to the garden area. A driveway leads from Radinden Drive to a detached single storey garage located to the front of the property. To the rear there is a large garden space sloping East to West which is bordered by dense vegetation.
- 2.2 Planning permission is sought for the erection of a replacement detached dwelling house. The application seeks to demolish the existing dwelling and erect a replacement dwelling of a similar footprint, comprising a slate gable roof with front and rear projections, creating an additional floor, with fully glazed rear additions incorporating a rear terrace at first floor level, with white rendered elevations and aluminium windows and doors throughout.
- 2.3 During the course of the application alterations to the detached garage have been omitted from the scheme. There have been alterations to the dwelling, which includes an amended design to the rear elevation, the relocation of the first floor terrace and the omission of the second floor terrace.

3. RELEVANT HISTORY

BH2015/02031- Alterations to detached garage including side and rear extension and raised height pitched roof to facilitate creation of first floor. Approved 09/09/2015.

BH2015/00529 - Remodelling of dwelling incorporating two storey front and rear extensions, roof alterations, enlargement of existing garage including additional floor and associated works. Approved 21/05/2015.

BH2014/02471- Remodelling of dwelling incorporating two storey front and rear extensions, roof alterations, enlargement of existing garage including additional floor and associated works. Refused on 17/11/2014. The reason for refusal was as follows:-

1. The proposed remodelling, by reason of its roof form and materials, would create an incongruous appearance at odds with the prevailing character of Radinden Drive and the surrounding area. Further, the proposed garage, by reason of its form and height, would represent an unduly dominant addition which would stand out in the street scene as an inappropriate addition. The proposal would fail to emphasise or enhance the positive qualities of the local neighbourhood and is therefore contrary to policies QD2 and QD14 of the Brighton & Hove Local Plan, and Supplementary Planning Document 12, Design Guide for Extensions and Alterations.
2. The proposed first and second floor terrace areas represent unneighbourly and overbearing additions which would result in overlooking and loss of privacy for occupants of adjoining properties. The proposal would be detrimental to neighbouring amenity and is therefore contrary to policies QD14 and QD27.

4. REPRESENTATIONS

4.1 External

4.2 Neighbours:

Eleven (11) letters of representation have been received from **3, 4, 10 & 15 (x2) Fulmar Close 3 & 5 Orpen Road 22 28 & 30 The Martlet, 9 Radinden Drive** objecting to the proposal for the following reasons:

- A larger dwelling and garage/office would be out of keeping with the area.
- The property would be too big for its plot size, too tall and out of scale.
- The proposed dwelling would have a harmful impact in terms of overshadowing, loss of light, loss of outlook and loss of privacy.
- The enormous amount of glass will be extremely reflective.
- The use of the gate/door accessed from Fulmar Close which does not have planning permission could lead to disturbance and extra traffic.
- The two storey garage would be out of keeping with surrounding development and would result in overshadowing and loss of light.
- The garage has the appearance of a separate dwelling and could be used as such.
- The office may be used for business purposes.
- The proposal for the gated entrance would be inconvenient and highly intrusive.
- The demolition of the dwelling could result in health issues (regarding asbestos) and the road damaged through the use by trucks.

5. CONSULTATIONS

5.1 Arboriculture Department: No objection

5.2 Transport planning: No objection

The proposal would result in the existing car parking remaining. The applicant is proposing cycle parking space in the garage which is welcome, a condition will be added to implement this.

6. MATERIAL CONSIDERATIONS

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design

Brighton & Hove Local Plan (retained policies March 2016):

- TR7 Safe Development
- TR14 Cycle access and parking
- QD5 Design - street frontages
- QD14 Extensions and alterations
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD06 Trees & Development Sites
- SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of the development on site, the impacts of the proposal upon the visual amenities of the parent property, the streetscene and the wider area, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, and sustainability and traffic issues.
- 8.2 **Principle of Development:**
The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.3 The application site currently consists of a single dwelling house and the replacement would be a single dwelling house. The proposal would not result in a net loss of housing in the city and is acceptable in principle.
- 8.4 **Design and character:**
Radinden Drive and the surrounding area comprises a number of large detached houses of varying design, style and age. The properties in the street comprise a mixture of brick and rendered elevations and differ in terms of detailing. 11 Radinden Drive is set back from the cul-de-sac and has a relatively plain appearance with brick elevations, a plain tiled roof and UPVC fenestration. The existing house is similar in scale to the other properties in the street. The property is situated to the south west of the cul-de-sac with a relatively consistent building line with neighbouring properties. The properties on the north east side are relatively unseen as they are set back from the street and screened by dense vegetation.
- 8.5 The application site has been the subject of previous applications to remodel the existing dwelling, of which a recent application **BH2015/00529** has been approved incorporating a modern design, featuring a third storey, a first floor rear terrace with balcony screen and a full height glazing design element. This application seeks to demolish the existing dwelling and erect a replacement dwelling, comprising a slate gable roof with front and rear projections, creating an additional floor, with fully glazed rear additions incorporating a rear terrace at first floor level, with white rendered elevations and aluminium windows and doors throughout.
- 8.6 The general footprint of the main building would be retained as existing. The ridge of the main roof would increase by approximately 1.8m. The submitted plans indicate that the ridge of the main roof would be a similar height to no. 9 Radinden Drive and slightly lower than no 7 Radinden Drive. The street scene is varied in terms of roof form and height and it is therefore felt that the height of

the property respects the general appearance of the Radinden Drive and the topography.

8.7 The scheme has been amended during the course of the application to include the omission of two of the four rear gable projections and a continuous height level at ground floor level. The result is a simpler building which creates a more coherent and less 'fussy' appearance to the property. The palette of materials is considered to be acceptable. The majority of properties in the street and nearby vicinity feature brickwork or render, or a combination of the two, and therefore white render is considered acceptable. The roof form consisting of a gable roof with front and rear projections fits appropriately amongst the variety of roof form and styles prevalent within the immediate surrounding area, with hipped, gable and barn hip roof forms and alterations to the roof space. Similarly, whilst the finish of the property would be substantially different to the existing property and surrounding properties, there is considered to be a sufficient variation of styles and detailing within the street scene and surrounding area to accommodate the modern approach in this case and maintain visual cohesion. It is also noted that whilst the proposed building would be visible from nearby houses and their gardens, due to its location, set back from the cul-de sac it would not be highly visible in views along Radinden Drive and would not impinge upon the streetscene.

8.8 Standard of Accommodation:

The proposed dwellinghouse would provide a good standard of accommodation with sizeable rooms and natural light and ventilation throughout. The new dwelling would have a gross internal floor space of approximately 465sqm which is in accordance with the governments Technical Housing Standards- Nationally described space standards which states that an 8 person, 5 bedroom, 3 storey property should have a minimum gross internal floor area of 134sqm. The property features five double bedrooms each of which meets the minimum national space standards.

8.9 The existing private rear garden would be retained and there is sufficient space to provide refuse/recycling facilities on the site. Details of which will be sought via condition. As such the private amenity space provided is in accordance with Policy HO5.

8.10 Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) dwelling appears to be achievable; therefore, relevant conditions are attached to ensure the development complies with Requirement M4 (2) of the optional requirements in Part M of the Building Regulations.

8.11 **Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent

users, residents, occupiers or where it is liable to be detrimental to human health.

- 8.12 The scheme would most affect the property to the North West, no. 9 Radinden Drive. Although the increase of the height of the replacement dwelling would have some impact toward this property, this increase in height of 1.8 m at its highest point is unlikely to cause harmful loss of light, overshadowing or outlook toward this property that would warrant refusal of the application. Whilst there will be some impact toward the two South East facing ground floor windows of this property, these windows are not the sole windows to provide light into these rooms and therefore there would be no significant adverse impact toward these rooms.
- 8.13 The window openings proposed to the front (North East) and rear (South West) elevations would provide similar views as the existing arrangement. The submitted plans indicate that all windows to the (North West) side elevation would be obscure glazed, this will be secured via condition to prevent overlooking toward no. 9 Radinden Drive. The new window openings to the side (South East) elevation would face the long rear garden space of 30 The Martlet, with adequate screening and distance to prevent overlooking and therefore it is not considered necessary to condition the obscure glazing of these windows.
- 8.14 The terrace area at second floor level has been removed from the scheme and the first floor terrace has been relocated to be set in from the North East side of the property. This terrace, measuring 5.5 metres wide and 2 metres in depth, would be set in 2.1 metres from the North East side and 6.7 metres from the south west side with the addition of a m high obscure glazed privacy screen either side. This arrangement is considered sufficient to direct views over the rear garden of the application site, and any sideways views to adjoining gardens, particularly no.9, would not be as intrusive or persistent as to cause a harmful loss of privacy. In terms of noise and disturbance as a result of the proposed terrace, it is considered that the siting and size of the terrace would not result in any significant disturbance or noise to warrant refusal of planning permission. The inclusion of the privacy screens on the plans is considered sufficient to mitigate against any overlooking or loss of privacy and should be retained by condition.
- 8.15 **Sustainability:**
City Plan Part One policy CP8 requires new residential development demonstrate efficiency in the use of water and energy, setting standards that mirror the national technical standard for water and energy consumption. Conditions are applied to ensure the development meets these standards as set out in policy CP8.
- 8.16 **Transport:**
The proposal remains similar to the existing arrangement in terms of vehicle access. There would be sufficient storage for cycle storage within the garage and shed and it is not necessary to require further details through condition. The Sustainable Transport Team has raised no objection to the proposal.

- 9. EQUALITIES**
9.1 None identified.

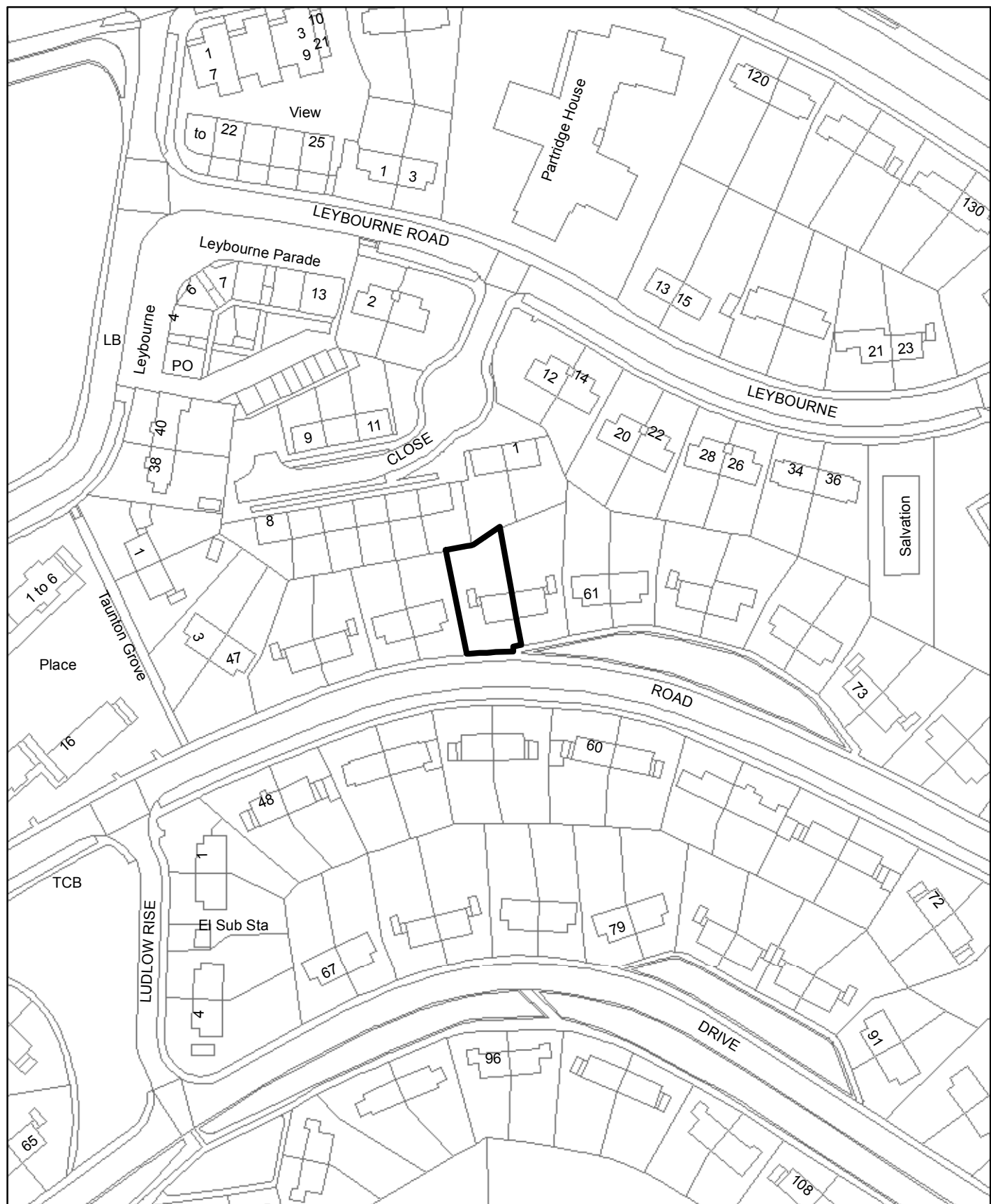
ITEM F

57 Hornby Road, Brighton

BH2016/02810

Full planning

11th January 2017



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>o:</u>	BH2016/02810	<u>Ward:</u>	Moulsecomb And Bevendean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	57 Hornby Road, Brighton, BN2 4JH		
<u>Proposal:</u>	Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4). (Retrospective)		
<u>Officer:</u>	Charlotte Bush, tel: 292193	<u>Valid Date:</u>	19.08.2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	14.10.2016
		<u>EoT/PPA Date</u>	26.10.2016
<u>Listed Building Grade:</u>			
<u>Agent:</u>			
<u>Applicant:</u>	Lisa Bradley 29 Norwich Drive Brighton BN2 4LB		

This application was deferred at the last meeting on 14/12/16 for further information about space standards.

1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Other	EXISTING FLOOR PLANS 01		19 August 2016
Other	EXISTING FLOOR PLANS 02		19 August 2016

- 2 Within three (3) months of the date of this approval, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use within one (1) month of the agreement of details and shall thereafter be retained for use at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

- 3 The existing layout detailed on drawing no.01 and 02 shall be retained. The ground floor rooms annotated as living room/dining, kitchen and utility room as set out on drawing no.01 shall be retained as communal space and none of these rooms shall be used as bedrooms at any time.

Reason: To ensure a suitable standard of accommodation for occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 4 The development hereby approved shall only be occupied by a maximum of four persons.

Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to a two storey semi-detached house on the northern side of Hornby Road.

- 2.2 The property is not located in a conservation area. However, there is an Article Four Directive present which restricts the change of use from C3 single dwellinghouse to C4 small house of multiple occupation.

- 2.3 The applicant has written to the Local Authority responding to points raised in objection letters from local residents, which are outlined below:

- The impact (of and HMO) can be the same as some family homes who can also be very noisy.
- Students generally have less cars
- Communication is key to resolve noise and issues with gardens and rubbish
- Tenants of HMO's are not always students
- The current groups which mainly seem to be on Facebook are becoming a witch hunt against HMO's when they are only part of the problem, photographs are being posted complaining about the state of the gardens assuming that the houses are HMO's when sometimes these pictures are of family homes
- With regards to 'footballs flying' - 3 football loving boys lived there previously and footballs were often played with. Also the ball that was in the garden of 57 Hornby Road appeared in the summer when some relatives were staying there, it came from a neighbouring garden but it was unclear which one.
- 59 Hornby Road does not have young children living there

- Owners have not stated that they would not rent to sharers, indeed it was rented to sharers previously for a number of years
- There is no proof that HMO's generate more noise or have more cars than a family home
- There was more rubbish when the tenants moved in, but that is standard when anyone moves house. The rubbish is no longer there.
- In regards to the rubbish by the door the tenants were spoken to and reminded that it is their responsibility to put the rubbish out and if they do not it will be removed at their cost.
- The neighbours at number 55 expressed their hopes at applying for a HMO for their property.
- We have owned the property for approximately 4 years and the condition of the neighbouring property has not improved in that time (photos included to demonstrate this).

3. RELEVANT HISTORY

94/0337/FP - Erection of a two storey side extension. Refused 01/06/1994

4. REPRESENTATIONS

4.1 **Twelve (12)** letters have been received from **2 Leybourne Close, 3 Leybourne Close, 55 Hornby Road (x2), 57 Hornby Road, 67 Hornby Road, 34 Plymouth Avenue, Unknown number Durham Close, 17 Manton Road, 80 Plymouth Avenue, Unknown number Kenilworth Close, Unknown address BN2 4JH, objecting** to the proposed development for the following reasons:

- The property is already occupied as a student HMO
- The occupiers are noisy and use foul language
- The property backs onto bungalows for the elderly, and the high noise levels results in them having to shut their windows
- Bevendean is already saturated with student HMO's. The community is suffering with the loss of family homes and the local school being under-subscribed.
- The late night noise disturbances, huge accumulation of rubbish on the streets and the general lack of consideration for the neighbourhood is destroying the community and leaving residents at breaking point.
- Community events like the Bev fest and Bevendean Family Fun Day have been cancelled due to lack of family and local support.
- There are too many HMO properties in Bevendean already. This would have a further negative impact upon parking, noise, litter.
- The road is already full of cars and so parking will be even more of a problem if multiple students move in with cars.
- Bevendean has already lost its doctors surgery in favour of multiple student homes to be built on that site.
- The number of HMO's is driving up property prices so that families can't buy houses
- The proposal does not meet with the Councils Planning Policy

- There is a vast amount of student accommodation in the last year on the Lewes Road the Gyrotory Site the bottom of Newmarket Road bottom of Gladstone Terrace with additional units being provided on the Preston Barrack site

4.2 Councillors Daniel Yates and Mo Marsh have also written in objecting to the application. Copies their representation are attached to the report.

5. CONSULTATIONS

5.1 Housing: No Comment

5.2 Planning Policy: No Comment

5.3 Sustainable Transport: No objection

Recommended approval as the Highway Authority has no objections to the above application subject to inclusion of the necessary condition.

5.4 Car Parking

No car parking is proposed; however, it is not deemed that additional demand from one three bedroom House in Multiple Occupation (HMO) would be substantial or result in a severe impact in this location. It is not therefore considered that refusal would be warranted on these grounds under the National Planning Policy Framework.

5.5 Cycle Parking

No cycle parking appears to be provided. SPD14 requires a minimum of one space per two bedrooms, equivalent to two spaces in this instance. In order to comply with Brighton & Hove Local Plan policy TR14, cycle parking should be secure, convenient to access and, wherever possible, covered.

5.6 Trip Generation

It is not considered that trips generated by the proposed use would be substantially different to that permitted.

6. MATERIAL CONSIDERATIONS

6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);

- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
 CP8 Sustainable Buildings
 CP9 Sustainable Transport
 CP19 Housing Mix
 CP21 Student Accommodation and Houses in Multiple Occupation

Brighton & Hove Local Plan:

TR7 Safe development
 TR14 Cycle access and parking
 SU10 Noise nuisance
 QD27 Protection of amenity
 HO5 Provision of private amenity space in residential development
 HO8 Retaining housing
 HO14 Houses in multiple occupation (HMOs)

Supplementary Planning Documents:

SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the principle of the change of use, impact upon neighbouring amenity, the standard of accommodation which the use would provide, transport issues and the impact upon the character and appearance of the property and the surrounding area.

8.2 **Principle of development:**

The development is a change of use from a C3 dwelling to a use which would allow occupation of the property as a C4 HMO providing accommodation for up to 6 unrelated individuals (in this case 4 bedspaces) who share basic amenities including a kitchen and bathrooms.

8.3 Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to either class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation and states that:

'In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in multiple occupation)

use, a mixed C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:

- More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use.'

8.4 A mapping exercise has taken place which indicates that there are 33 neighbouring properties within a 50m radius of the application property. One (1) neighbouring property has been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is thus 3.03%.

8.5 Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a C4 HMO would be in accordance with policy CP21.

8.6 **Standard of accommodation:**

The layout provides kitchen, separate lounge/diner and double bedroom, utility room and shower room to the ground floor; three further bedrooms and bathroom to the first floor. There is also a large rear garden.

8.7 Bedroom one measures 16.39 sq metres

Bedroom two measure 13.44 sq metres to the alcove for the wardrobe

Bedroom three measures 11.84 sq metres to the alcove for the wardrobe

Bedroom four measures 9.66 sq metres excluding the built-in wardrobe.

8.8 Bedrooms one to three all meet the minimum space standards for a double bedroom as established in the Nationally Described Space Standards provided by the Department for Communities and Local Government which states that a double bedroom should have a floor area measuring at least 11.5m².

8.9 Bedroom four meets the minimum space standard for a single bedroom. The Nationally Described Space Standards states that a single bedroom should have a floor area measuring at least 7.5m². Bedroom four meets this requirement and also has a built in wardrobe.

8.10 The bedrooms are therefore all considered to be of adequate size with good circulation space and levels of natural light and outlook.

8.11 However, the maximum occupancy for this property will be restricted to a maximum of four individuals as the communal lounge/dining room measuring 9m² would not provide sufficient communal space to provide an acceptable standard of living accommodation for more than four occupants.

8.12 The lounge/diner for a HMO is expected to be of a size where all occupants can sit and relax together comfortably, and sit around a table to eat. It was noted on site that the lounge/diner currently has a sofa, TV and dining table installed, although it is a little cramped. However, the bedrooms are of a sufficient size to provide the standard furniture that would be expected as well as good

circulation space; there is one bathroom per two occupants; a separate kitchen and utility room; and a large rear garden. These additional communal spaces are considered sufficient to outweigh the smaller lounge/diner.

8.13 Impact on Amenity:

The occupancy will be restricted to 4 unrelated persons residing within the property. It is therefore not considered that any increased impact to adjoining occupiers in regards to noise and disturbance would be of a magnitude which would warrant the refusal of planning permission.

8.14 The overall percentage of HMO's within a 50m radius is 3.03% which is within the 10% limit specified within policy CP21. As such, the cumulative impact of the proposed HMO on the area is not considered to cause harm to local amenity.

8.15 Transport:

The proposed change of use would not result in a significant increase in on-street parking pressure or uplift in trip generation. Secure, covered cycle parking shall be secured by condition.

9. EQUALITIES

9.1 None identified

Jack Summers

From: Planning Applications
To: Jeanette Walsh
Subject: RE: HMO applications in M+B in last fortnight

From: Mo Marsh
Sent: 13 September 2016 3:11 PM
To: Daniel Yates
Cc: 'hmo-forum@googlegroups.com'; Anne Meadows; Andrew Ashcroft; Jeanette Walsh
Subject: Re: HMO applications in M+B in last fortnight

Classification: NOT ENCRYPTED

I will be supporting Cllr Yates objections and speaking at Planning committee on behalf of residents if the officer recommendations are to grant. This situation is intolerable for residents.

Kind regards,

Mo Marsh

Labour Councillor for Moulsecoomb and Bevendean.

Deputy Mayor of Brighton and Hove City Council

Member of Health Overview and Scrutiny,

Chair, Member Development Working Group.

Chair, Educational Trust funds trustees

Tel 01273-296446, 07825387383

From: Daniel Yates
Sent: Tuesday, September 13, 2016 02:53 PM
To: Daniel Yates <daniel.yates@talktalk.net>; Daniel Yates
Cc: 'hmo-forum@googlegroups.com' <hmo-forum@googlegroups.com>; Anne Meadows; Mo Marsh
Subject: HMO applications in M+B in last fortnight

All these applications in Moulsecoomb and Bevendean...as below:

BH2016/02999 152 Birdham Road, Brighton, BN2 4RR

Change of use from four bedroom single dwelling (C3) to six bedroom small house in multiple occupation (C4).

BH2016/02810 57 Hornby Road, Brighton, BN2 4JH

Change of use from three bedroom single dwelling (C3) to three bedroom small house in multiple occupation (C4).

BH2016/02887 126 Newick Road, Brighton, BN1 9JG

Change of use from four bedroom single dwelling (C3) to four bedroom small house in multiple occupation (C4)

BH2016/05129 17 Nyetimber Hill Brighton BN2 4TL

Change of use from four bedroom small house in multiple occupation (C4) to nine bedroom house in multiple occupation (Sui Generis).

I will be sending in my objections as ward councillor asking for any potential granting to be taken to the full planning committee

Best wishes

Daniel Yates

Labour Councillor for Moulsecoomb and Bevendean
Chair, Brighton & Hove Health and Wellbeing Board

daniel.yates@brighton-hove.gov.uk

@danieljyates

Daniel Cull

From: noreply@brighton-hove.gov.uk
Sent: 25 September 2016 23:42
To: Planning Comments
Subject: Planning Application BH2016/02810 - comment 1052754

Planning Application - BH2016/02810

Comment reference number: 1052754

I object to the Planning Application

Sender's details

cllr daniel yates
92 hodshrove rd
bn2 4rs
Neighbour consultation letter: n/a

Comment

Reasons for objection: The impact of this HMO on the surrounding residents, community and properties could be significant: • Potential for noise and other environmental disturbance including waste management issues • Inadequate provision of parking and consequential impact to on street parking. • Impact on community resources such as schools and health facilities due to the loss of family accommodation It would also be helpful if the officer report could outline the impact of this being granted would have on the councils ability to meet its commitments within city plan part one. Especially the requirements and the council's ability to meet its housing needs assessment. I note that they are HMO licenses current in place at 4,6, 13,26,33,45 and 63 Hornby Road. I hope that their impact on the 10% rule is properly taken into consideration. Should the recommendation on this application be to approve I would like this application to come to committee please.”

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ITEM G

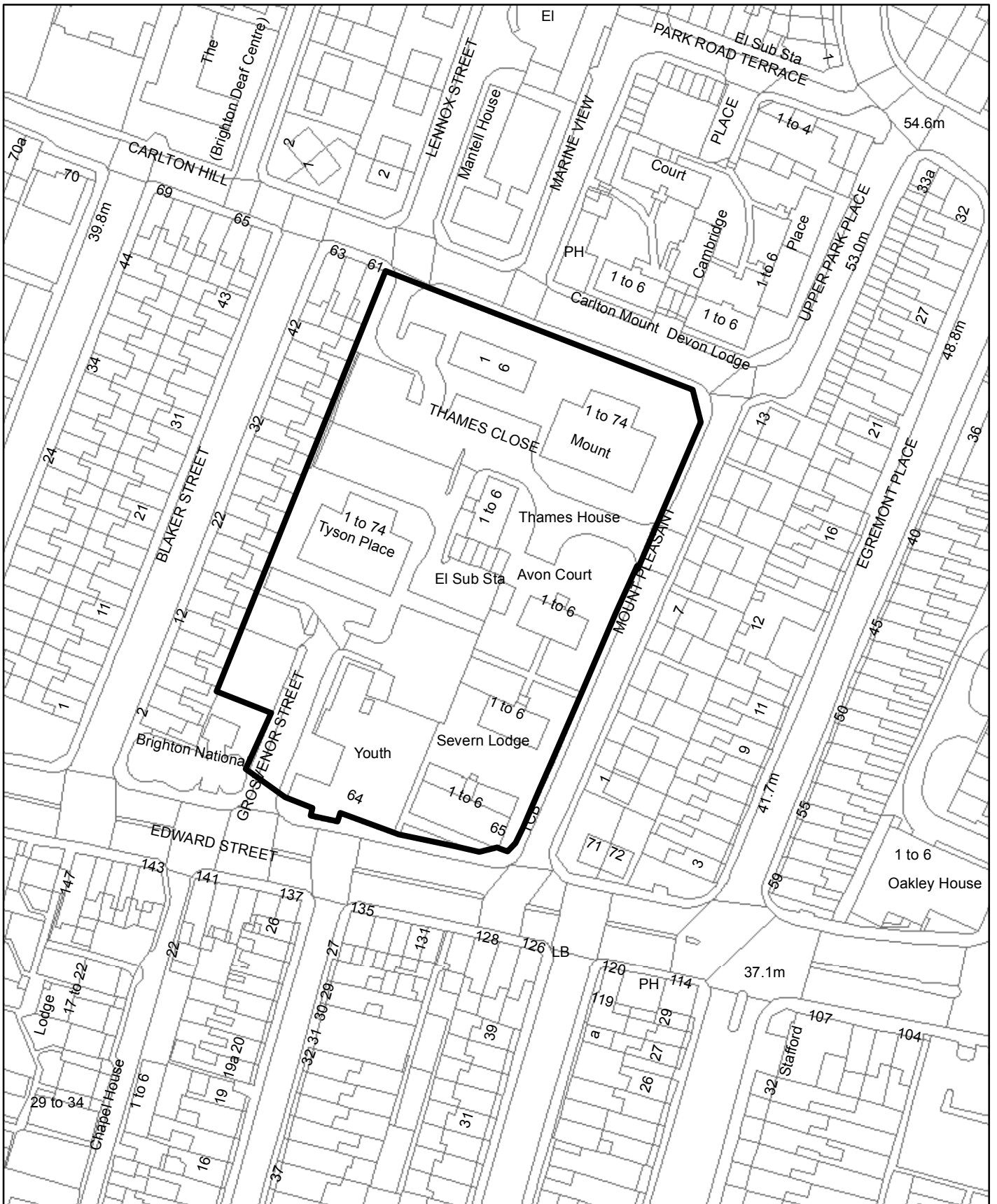
Tyson Place and St Johns Mount, Brighton

BH2016/05563

Full planning

11th January 2016

BH2016/05563 Tyson Place and St Johns Mount, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/05563	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Tyson Place & St Johns Mount Grosvenor Street & Mount Pleasant Brighton BN2 0JQ		
<u>Proposal:</u>	Installation of insulated render cladding to all elevations and replacement of existing windows and doors with UPVC windows and doors and associated alterations.		
<u>Officer:</u>	Charlotte Bush, tel: 292193	<u>Valid Date:</u>	06.10.2016
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	01.12.2016
		<u>EoT/PPA Date</u>	
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Mr Simon Foulkes Unit 313 Metal Box Factory 30 Great Guildford Street London SE1 0HS		
<u>Applicant:</u>	Mr Scott Lunn Housing Centre Unit 1 Fairway Trading Estate Eastergate Road Brighton BN2 4QL		

1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Block Plan	1388-PA-01		5 October 2016
Location Plan	1388-PA-OS		5 October 2016
Elevations Proposed	1388-PA-P-01 TYSON PLACE 1/2		5 October 2016
Elevations Proposed	1388-PA-P-02 TYSON PLACE 3/4		5 October 2016
Elevations Proposed	1388-PA-P-03 ST.JOHNS MOUNT 1/2		5 October 2016
Elevations Proposed	1388-PA-P-04 ST. JOHNS MOUNT 3/4		5 October 2016

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 3 No development shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including
 - a) Samples of all cladding to be used, including details of their treatment to protect against weathering

Development shall be carried out in accordance with the approved details.

Reason: As this matter fundamental to the development and to ensure a satisfactory appearance to the development and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton and Hove City Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to two x 14 storey residential tower blocks, each containing 74 flats. The existing buildings are finished in facing brickwork with white uPVC window and door units.
- 2.2 St Johns Mount is situated on Mount Pleasant. Tyson Place is situated on Grosvenor Street. Due to the height and location of the buildings, they are clearly visible from the Queens Park, Carlton Hill and East Cliff Conservation Areas thereby affecting the setting of heritage assets. Additionally, each block located within the 'Eastern Road and Edward Street' development Area (DA5) of the City Plan.
- 2.3 The residential blocks were built in the 1960's. The supporting Planning Statement states that the proposed alterations are required due to defects to the brickwork pointing, a lack of thermal insulation and the resultant possibility of condensation. The windows are estimated to be at least 25-30 years old and in many instances are distorted, draughty and defective.
- 2.4 The Planning Statement also states the exposed concrete to the balconies and ground floor undercroft are cracking and spalling in places and tests have demonstrated that that works are required to protect the balconies and undercroft from chlorination through salt damage.

- 2.5 The proposed scheme is to install 20mm deep Bostik Climatherm render system (EWI) in an off-white colour to all elevations from first floor level of both Tyson House and St. Johns Mount. A 25 year guarantee would be provided for the render. The existing balconies would not be rendered but the balcony handrails would be repainted.
- 2.6 The windows and external doors to both blocks would be replaced with white uPVC units. The units would be of similar style and operation to the existing arrangement
- 2.7 New roof covering and insulation would also be installed on St Johns Mount. The new roof covering would also be subject to a 25 year guarantee.
- 2.8 The roof and balcony cast iron drainage downpipes would be boxed in where running through individual flat balconies.
- 2.9 General external concrete, render and pointing repairs would also be completed along with external decorations to previously painted surfaces.

3. RELEVANT HISTORY

BH2005/05676 - St. Johns Mount

Replacement windows, curtain walling and new balcony and terrace screens.
Approved 10/01/2006

BH2002/00129/FP - St. Johns Mount

Replacement of brick slip facing to floor beams with concrete planking to north, east and west elevation. Approved 12/02/2002

BH2000/03259/TA - Tyson Place

Replacement of existing antennae and re-siting on the corners of the roof, installation of additional 600mm transmission dish and replacement of existing 3 equipment cabinets with 4 cabinets. Withdrawn

BH1999/01427/FP - Tyson Place

Replacement of front entrance screen with painted aluminium screen and door.
Approved 23/07/2016

4. REPRESENTATIONS

- 4.1 **Eight (8)** letters has been received from **21 (x3), 24, 74 (x 2) Tyson Place, 10 and 116 Donal Hall Road**, objecting to the proposed development for the following reasons:

- The work is necessary, costly and disruptive to residents.
- The cladding is not long lasting and will need maintenance.
- The cladding is unsightly.
- The drawings are unclear as to the extent of the work.
- Query insulation and breathability of the work, and the durability of proposed materials.

4.2 **Five (5)** letters has been received from **29 Tyson Place (x2), 60 and 74 St Johns Mount, and the Mount Pleasant Residents Association** supporting the proposed development for the following reasons:

- The render will make the flats look more like other flats in the city.
- It would make the flats warmer

5. CONSULTATIONS

5.1 Heritage: No objection

These tall buildings are not of historic significance themselves however they are close to the Queens Park, Carlton Hill and East Cliff Conservation Areas and due to their scale are visible from some locations within these conservation areas, thereby affecting the setting of heritage assets.

5.2 These buildings are visible as backdrops to historic buildings within the conservation areas, including listed buildings (eg 7-10 Egremont Place), appearing above the roofs and interrupting the skyline.

5.3 Most instances where they are visible in this way they are seen in the background of rendered terraces and their existing brick facades therefore contrast with the general street scene within the conservation areas. The proposal to clad the blocks in a material which more closely blends with the render of the surrounding historic areas is likely to reduce the prominence of these blocks in the distance and the Heritage Team therefore does not wish to object to this proposal.

6. MATERIAL CONSIDERATIONS

6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

DA5 Eastern Road and Edward Street Area

CP8 Sustainable buildings

CP12 Urban design

CP15 Heritage

Brighton & Hove Local Plan (retained policies March 2016):

QD5 Design - street frontages

QD14 Extensions and alterations

QD27 Protection of amenity

HE3 Development affecting the setting of a listed building

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the resultant appearance of the proposed development (visual impact) and impact upon the setting of heritage assets, amenity, and environmental sustainability.

8.2 **Design and Appearance**

The application site relates to two 14 storey high blocks of residential flats built in the 1960's. The curtilage surrounding the site is a mix of hard and soft landscaping; the soft landscaping consisting of grassed areas and shrubs.

8.3 The proposed scheme is to install 20mm deep Bostik Climatherm render system (EWI) in an off-white colour to all elevations from first floor level of both Tyson House and St. Johns Mount. The existing balconies would not be rendered and would retain the facing brickwork. The windows and external doors to both blocks would be replaced with white uPVC units of a similar style and operation to the existing arrangement. New roof covering and insulation would be installed on St Johns Mount. Repairs of the external concrete, render and pointing would be undertaken along redecoration of previously painted surfaces, and other minor alterations.

8.4 The immediately surrounding buildings predominantly comprise low density housing including semi-detached houses and three storey blocks of flats; as well as some commercial buildings. These buildings are predominantly finished in facing brick. As such, the development has a consistency of design and appearance in regard to design character and materials.

8.5 The proposed scheme to render the blocks will result in a contrast to the nearby brick built properties. However, the blocks already look significantly different due to their height and design.

- 8.6 Moreover, due to the height and location of the blocks, they are readily visible from the East Cliff, Queens Park and Carlton Hill conservation areas, and consequently have an impact on the visual amenity of these areas.
- 8.7 The properties in the near-by conservation areas are predominantly rendered terraces, and the brick facades for the existing blocks therefore contrast with the general street scene within the conservation areas.
- 8.8 The proposed scheme is not considered to cause significant harm to the overall appearance of local area and is considered to reduce the visual harm to the nearby conservation areas and is consequently recommended for approval.
- 8.9 The Planning Statement provided with this application states that the two blocks are in poor condition with defects to the brickwork and pointing, a lack of thermal insulation and the resultant possibility of condensation. Defective windows and doors are also highlighted, as well as cracking and spalling to the exposed concrete to the balconies and ground floor undercroft.
- 8.10 A further issue is the durability of the proposed facing material and how it would weather over time. The current brick faced finish has retained a quality of appearance; its appearance has not significantly weathered or deteriorated over time, and subject to appropriate routine maintenance being carried out (which may not have occurred in the past) is unlikely to do so in the short to medium term. The proposed through colour render cladding may weather and discolour over time. This is a significant concern, it is however difficult to predict with confidence how such a finish would weather in reality. Experience with other developments in the city indicates that discolouration is likely to occur.
- 8.11 Additional information provided in the Planning Statement makes the case that the specific render finish proposed will be unlikely to collect dirt or discolour as it is designed to shed dirt more effectively through rain washing and therefore will become dirty over a much greater period. The render can also be pressure washed and treated with commercial mould products to remove any stains or mould that does appear. This information is noted, it however remains the case that the future appearance of the building, in the immediate years following the implementation of the cladding and beyond, can only be speculated upon at this time. This is the case when agreeing materials on all buildings in the city, and it is considered likely that a regular routine maintenance would be required.
- 8.12 **Sustainability:**
The proposed insulated render system would provide improved thermal performance to the building. The Planning Statement calculates that this would potentially result in reduction in heat leakage of up to 35% through the external facade of the each block, thereby reducing emissions as well as lowering fuel bills.
- 8.13 The sustainability improvements are generally welcomed are in accordance with Policies SS1 and CP8 of the Brighton and Hove City Plan.

- 8.14 On balance, it is considered that the benefits of the proposed scheme in terms of improved appearance of the blocks in the wider vicinity and near-by conservation areas, and the improved sustainability and thermal efficiency of the blocks outweigh the harm caused by the potential deterioration of the rendering as this can be overcome with a regular maintenance schedule.
- 8.15 **Impact on Amenity:**
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.16 A number of objections have been raised in relation to the proposed development. The practical implications of the proposed works have been raised as concerns (e.g. potential for increased temperatures indoors in the warmer months, and potential damage to the bricks due to lack of air). These concerns are noted, it is however considered that the products have been duly tested and certified for use on these types of properties.
- 8.17 Other matters raised include the disruption which would be caused during construction works and the cost of the works to those who have a leaseholder ownership of a flat within the development. The cost of the works is not a material planning consideration. As with all development disturbance would be caused during construction works; this is not material to the determination of this application.
- 8.18 It is therefore concluded that any potential harm to amenity for residents of the blocks would not be of a magnitude which would warrant the refusal of planning permission.

9. EQUALITIES

- 9.1 None identified.

ITEM H

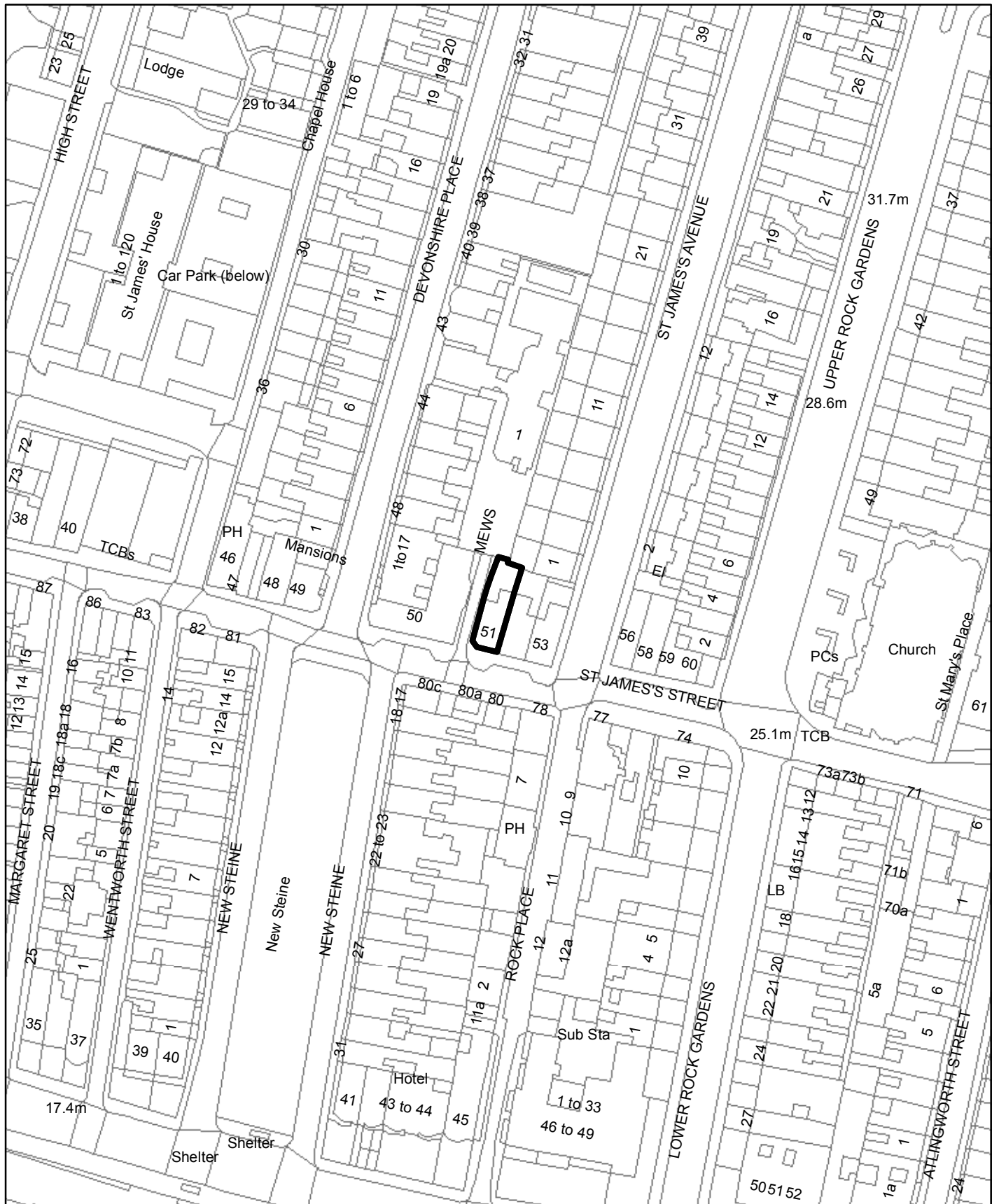
51 St James's St, Brighton

BH2016/01870

Full planning

11th January 2017

BH2016/01870 51 St James's St, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/01870	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	51 St James's Street, Brighton, BN2 1QG		
<u>Proposal:</u>	Erection of covered seating area on raised decking to rear courtyard. (Retrospective)		
<u>Officer:</u>	Charlotte Bush, tel: 292193	<u>Valid Date:</u>	22.07.2016
<u>Con Area:</u>	EAST CLIFF	<u>Expiry Date:</u>	16.09.2016
		<u>EoT/PPA Date</u>	17.01.2017
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>			
<u>Applicant:</u>	Nafiz Karaca	Anatolia Cuisine	51 St James's Street Brighton BN2 1QG

1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Elevations Proposed	010-04	REV D	30 September 2016
Floor Plans Proposed	010- 03	REV B	26 September 2016
Location and block plan	010 - 03	REV B	26 September 2016

- 2 The garden area shall remain closed between 23:00 and 9:00 the following day, and the door shall remain shut during these times unless being used for emergency purposes.
Reason: In order to protect adjoining properties from noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 3 No amplified music shall be permitted in the garden area at any time.
Reason: In order to protect adjoining properties from noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

- 4 Proposed alterations to stain the wood fence and gate dark brown/black, and remove steel security spikes as shown in proposed plans 04D shall be implemented within 6 months of the date of this permission, and retained as such thereafter.

Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The decision hereby issued relates to the covered seating area only and does not relate to any other works indicated in the submitted drawings.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to the ground floor A3 (restaurant) unit of a three storey end of terrace building located on the corner of St. James's Street and New Steine Mews, which is situated with the East Cliff Conservation Area.
- 2.2 The majority of works to create the additional seating area have already been completed, but amendments would be required to make the design acceptable, as illustrated in Proposed Plans 04D. These works can be secured by condition.
- 2.3 A single storey extension is located at the rear of the property, but no planning application has been received for these works. This application seeks consent for the covered seating area only, and no other works will be considered. An informative will be added clarifying this point.

3. RELEVANT HISTORY

BH2004/02792/FP - Installation of a new shopfront with restaurant name on fascia. Approved 05/11/2004

BH1997/01948/AD - Installation of timber painted fascia and hanging signs illuminated by individual spot lights. Approved 14.01.1998

BH1997/01829/FP - Installation of new shop front and replacement windows on upper floors. Approved 12.01.1998

4. REPRESENTATIONS

- 4.1 **Six (6)** letters have been received from **Flat 4, 1 St James's Avenue, Flat 2, 1 St James's Avenue, Flat 3, 1, St. James's Avenue, 53a St. James's Street, 52b St James's Street, 52a St James's Street,** objecting to the proposed development for the following reasons:

- The restaurant is already noisy and disturbs the occupiers of neighbouring residential properties. This will be made worse with the outdoor seating area.
- The chimney is very noisy and the black smoke that belches out when they fire it up is disgusting and choking.
- The smell of the barbeque is very strong, and windows have to be kept shut in the summer.
- There is already a homeless hostel behind and this can be noisy and chaotic especially during summer months.
- The noise, lights and cigarette smoke has a strong effect on local residents and is very offensive.
- The proposed covered seating area has already been erected.
- The late-night (after 11pm) noise of music and conversation disturbs the sleep of local residents - there should be no music after 10pm in this seating area. There should be no conversation after 11pm.
- The last 15mths or so since they extended their restaurant into their back yard, has become annoying and aggravating.

5. CONSULTATIONS

5.1 **Environmental Health:** No Objection

5.2 The Environmental Protection Team is currently investigating a noise complaint from a neighbour in respect of these outdoor arrangements. It is noted that further noise and smoke complaints from neighbours have been notified to the planning department in response to the planning application.

5.3 While the investigation is being undertaken, it is premature to say that a problem exists but based on the balance of probability evidential test required to serve a notice under s80 the Environmental Protection act 1990 it is likely that one could be served once the new complainants have been contacted and evidence evaluated. In the meantime it would be unsafe to recommend approval.

5.4 Further comment received on the 6/12/2016

Have heard nothing since from the original complainant and no further complaints to Environmental Protection there is no evidence to support a refusal from Environmental Protection .

5.5 **Heritage:** Comment

The Heritage Team does not wish to make a comment on this application.

5.6 **Sussex Police:** Objection

There are no opening times given within the application and as such I have looked at the opening times as advertised on the internet. These are given as Midday to Midnight.

5.7 Given the advertised opening hours of the above premises are correct, I have concerns that the proposed outside seating area could have a detrimental effect upon the local amenity in the form of noise and smells from food, particularly

cigarette smoke. Sussex Police fully support Brighton & Hove Local Plan policies SU9, SU10 & QD27.

- 5.8 I note from the drawings submitted within the application that steel security spikes are proposed on the rear of the property. I recommend that the applicant seeks advice with respect to the Occupiers Liability Act 1984 when using anti climb measures with injurious toppings.
- 5.9 Where softwood screening and fencing has been installed to the perimeter; in order to deter access it will be imperative to ensure that no hand or footholds have been created that enables easy access over the perimeter fencing.
- 5.10 In the interests of the local community's amenity, Sussex Police do not support this application.
- 5.11 **Sustainable Transport:** No objection

6. MATERIAL CONSIDERATIONS

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
CP2 Sustainable economic development
CP4 Retail provision

Brighton & Hove Local Plan (retained policies March 2016):

TR14 Cycle access and parking
SU9 Pollution and nuisance control

SU10 Noise Nuisance
QD27 Protection of amenity
SR5 Town and district shopping centres
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations
SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the impact of the development on the appearance of the existing property and the surrounding area and the effect of the proposed extension on the residential amenity of neighbouring properties.
- 8.2 This retrospective application is for the erection of a covered seating area to the rear of the Anatolia Cuisine restaurant which is located on the corner of St. James's Street and New Steine Mews. This area forms part of the St. James's Street District Centre, and as such there is a varied mixture of restaurants, bars, retail shops and residential accommodation in the local vicinity. The property is located with the East Cliff Conservation Area.
- 8.3 The covered seating required amendments to make the design acceptable, and these amendments have been illustrated on proposed plan 04D. The amendments include:
- The steel security spikes will be removed in accordance with comments from Sussex Police.
 - The fence panels and gate on Elevation A-A (along New Steine Mews) will be stained dark brown or black.
 - The fence panels and gate on Elevation A-A (along New Steine Mews) will be reduced in height so that the top of it is in-line with the surrounding brick wall.
- 8.4 Subject to these alterations being implemented, the design of the seating area is considered acceptable.
- 8.5 The fence panels and gate are visible from New Steine Mews and the wider East Cliff Conservation Area. The requirement for the fence panels and gates to be stained dark brown or black will ensure that they in keeping with the local area and do not cause harm to the character and appearance of the conservation area. These works can be secured by condition.
- 8.6 A single storey extension is located at the rear of the property, but no planning application has been received for these works. This application seeks consent for the covered seating area only, and no other works will be considered. An informative will be added clarifying this point.
- 8.7 **Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

- 8.8 The scheme has the potential to have a negative impact on neighbouring amenity due to increased noise disturbance, and several representations have been received regarding environmental health issues. The Environmental Protection Team were therefore asked to provide comments on this matter.
- 8.9 The Environmental Protection Team confirmed that they had received noise and smoke complaints from concerned residents and could not recommend approval until an investigation had been undertaken. Further comments from the Environmental Protection Team received on the 6/12/2016 confirmed that there was no evidence to support a refusal.
- 8.10 A condition is recommended to ensure that the doors to the garden area remain closed after 23:00, thereby restricting the use of the area and protecting the amenity of local residents.
- 8.11 The scheme is not considered to pose any additional harm to neighbouring properties in terms of overlooking, loss of privacy, overshadowing or loss of light.
- 8.12 The attached condition is considered to mitigate the potential noise pollution from the seating area, and as such the application will not result in significant harm to the amenities of neighbouring residents and as such is considered acceptable.

9. EQUALITIES

- 9.1 None identified.

ITEM I

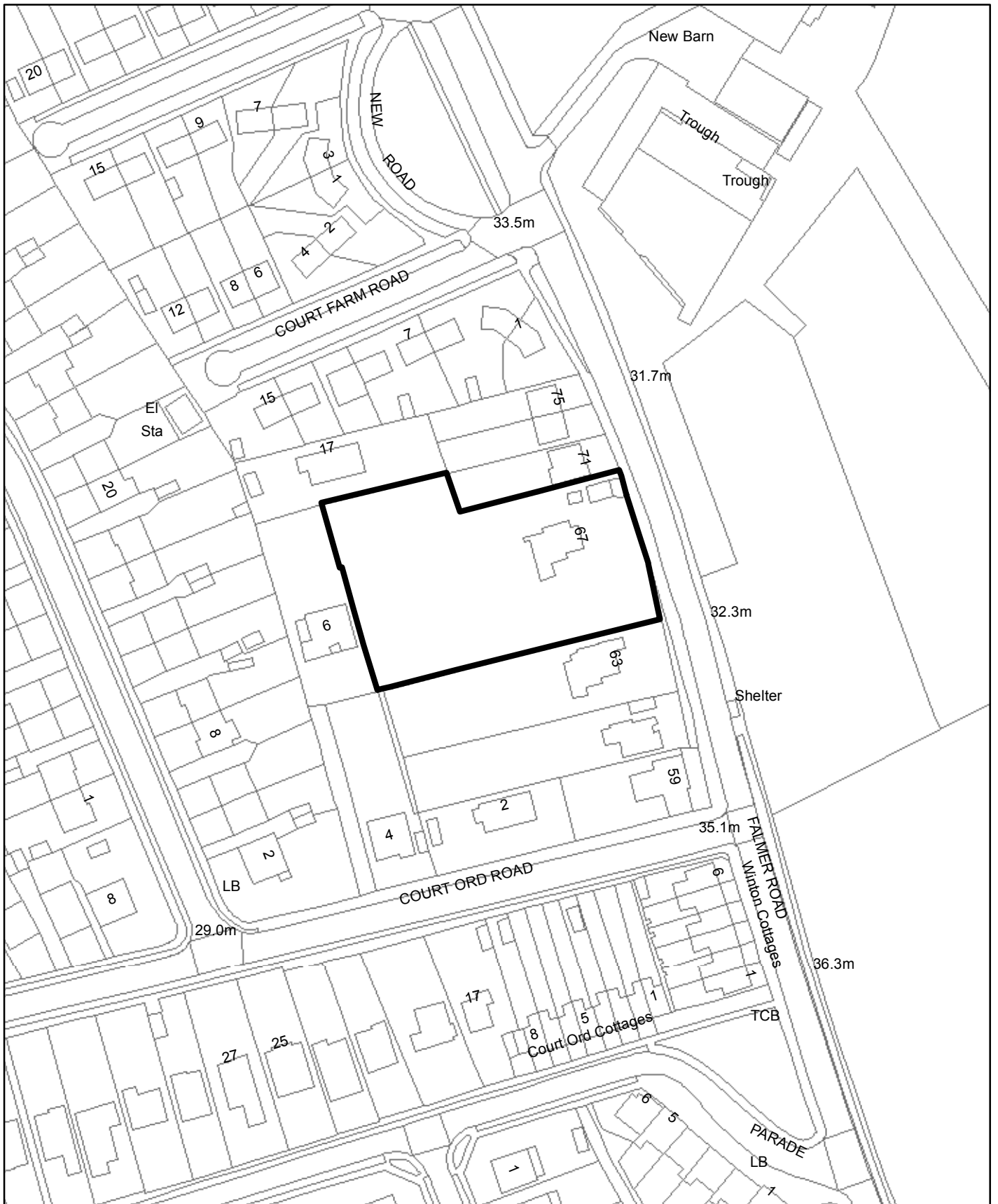
67 Falmer Road, Brighton

BH2016/00320

Full planning

11th January 2016

BH2016-00320 67 Falmer Rd Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/00320	<u>Ward:</u>	Rottingdean Coastal Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	67 Falmer Road, Rottingdean, Brighton, BN2 7FJ (67 Falmer Road Brighton)		
<u>Proposal:</u>	Demolition of existing house and garage and erection of 4no four bedroom and 5no three bedroom houses (C3).		
<u>Officer:</u>	Chris Swain, tel: 292178	<u>Valid Date:</u>	16.02.2016
<u>Con Area:</u>		<u>Expiry Date:</u>	12.04.2016
		<u>EoT/PPA Date</u>	
<u>Listed Building Grade:</u>			
<u>Agent:</u>	Turner Associates 19a Wilbury Avenue Hove BN3 6HS		
<u>Applicant:</u>	Denton Homes Ltd Mr Craig Lee Commercial House 52 Perrymount Road Haywards Heath West Sussex RH16 3DT		

1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement and the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Streetscene elevation proposed	TA493/P24	A	22 April 2016
Block Plan	TA493/P10	C	22 April 2016
Sections Proposed	TA493/P23	A	22 April 2016
Site Layout Plan	TA493/P12	D	22 April 2016
Floor Plans Proposed	TA493/P13		29 January 2016
Floor Plans Proposed	TA493/P14		29 January 2016
Floor Plans Proposed	TA493/P15		29 January 2016
Elevations Proposed	TA493/P16		29 January 2016
Elevations Proposed	TA493/P17		29 January 2016
Elevations Proposed	TA493/P18		29 January 2016
Sections Proposed	TA493/P19	A	22 April 2016
Sections Proposed	TA493/P20	A	22 April 2016
Elevations Proposed	TA493/P21	A	22 April 2016
Elevations Proposed	TA493/P22	A	22 April 2016
Location Plan	TA493/PO1		29 January 2016

Site Layout Plan	TA493/P11	D	22 April 2016
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- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

- 3 No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings and hard surfaced areas hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton and Hove City Plan Part One.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement, alteration or provision within the curtilage of the dwellings, as provided for within Schedule 2, Part 1, Classes A-E, other than those expressly authorised by this permission, shall be carried out within the curtilage of any dwelling house.
Reason: The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policy QD14 and QD27 of the Brighton & Hove Local Plan.

- 5 The development hereby approved shall be carried out in accordance with the conclusions and recommendations set out in the Ecology Report, produced by Applied Ecology and dated 21 January 2016 (received 29 January 2016).
Reason: To mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton and Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

- 6 The parking areas shown on the approved plans shall be completed prior to the first occupation of the development and retained for that use for the occupants and visitors of the development thereafter.
Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton and Hove City Plan Part One.

- 7 Notwithstanding details on the approved plans, prior to first occupation of the development hereby approved, details of disabled parking, for the occupants and visitors of the development, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented and available for use prior to the first occupation of the development and shall thereafter be retained for that use.

Reason: To ensure the development provides for the needs of disabled occupants and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14 guidance.

- 8 No development shall commence until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydro-geological context of the development has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the maintenance and management of such a scheme. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed and thereafter maintained and managed in accordance with it.

Reason: As this matter is fundamental to ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

- 9 Notwithstanding details on the approved plans, prior to first occupation of the development hereby approved, details of secure cycle parking facilities for the occupants and visitors of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented and available for use prior to the first occupation of the development and shall thereafter be retained for that use.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.

- 10 All tree work shall be carried out in accordance with the British Standard 3998 (2010) Recommendations for Tree Work.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 11 All the trees and hedges shown on the approved plans as "to be retained" and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 12 The dwellings hereby approved shall be completed in accordance with the Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to the first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice or Initial Notice to enable building control body to check compliance.
Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
- 13 None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
- 14 None of the residential units hereby approved shall be occupied until each residential unit has achieved a water efficiency standard using not more than 11litres per person per day maximum indoor water consumption.
Reason: To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
- 15 No development shall take place until detailed drawings of the site's access road and footway to include junction treatment, dropped kerbs, tactile paving and street lighting, has been submitted to and approved in writing by the Local Planning Authority. The works shall be designed to as near adoptable standards as is possible and be implemented in accordance with the details approved prior to the first occupation of the development and retained as approved thereafter.
Reason: As this matter is fundamental to ensure highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
- 16 The amended crossover and access shall be constructed prior to the first occupation of the development hereby permitted.
Reason: In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
- 17 No development shall commence until full details of existing and proposed ground levels (referenced by Ordinance Datum) with the site and on land and buildings adjoining the site by means of spot heights and cross sections showing the proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved levels details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of

the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 18 Prior to the first occupation of the development hereby approved, a detailed plan showing the position, height, design, materials and type of all existing and proposed boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided prior to the first occupation of the development as approved and retained in such a condition thereafter.

Reason: To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 19 Prior to the first occupation of the dwellings hereby permitted, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include: planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants (noting numbers, densities and implementation programme and extensive replacement tree planting. It shall also include a scheme to enhance the nature conservation interest of the site, to accord with the standards described in Annex 7 of Supplementary Planning Document 11: Nature Conservation and Development.

The landscaping scheme shall be carried out strictly in accordance with the agreed details and shall be carried out within the first planting season after the first occupation of the development. The landscaping shall be maintained to the satisfaction of the Local Planning Authority for a period of 5 years after planting, such maintenance to include the replacement of any trees and shrubs that die or have otherwise become, in the opinion of the Local Planning Authority, seriously damaged or defective. Such replacements to be of a similar species and size as those originally planted.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD11: Nature Conservation and Development.

- 20 Prior to the first occupation of the development hereby permitted, full details of the acoustic fence to be located along the boundary of the access road and 71 Falmer Road, shall be submitted to and approved in writing by the Local Planning Authority. The fence, as approved, shall be constructed prior to the first occupation of the development and retained as approved thereafter.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

- 21 The development hereby approved shall not be first occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. They shall be retained as approved and for that use thereafter.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 22 The development hereby permitted shall not be commenced until details of electric vehicle charging points for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: To encourage travel by more sustainable means and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14.

Informatives:

- 1 In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
- 2 The planning permission granted includes works which require alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The highway works are required to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.
- 3 The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.
- 4 The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.

- 5 The water efficiency standard required under condition 14 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
- 6 The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website (www.communities.gov.uk).

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to a property located on the western side of Falmer Road, between the junctions with Court Ord Road and Court Farm Road.
- 2.2 The existing 2 storey pitched roofed (part brick part rendered) dwelling, which comprises a large L-shaped garden, is set back from Falmer road by approximately 15m. A detached garage is located to the north-east of the dwellinghouse.
- 2.3 A boundary of the South Downs National Park is located on the eastern side of Falmer Road, approximately 8.6m from the front boundary of the application site.
- 2.4 Planning permission is sought for the demolition of one detached dwelling and garage and the erection of 4no four bedroom and 5no three bedroom dwellings.
- 2.5 The application proposes revisions to the approved scheme BH2015/02049. These alterations have been set out below:
 - Plots 5-9 have been reduced in height by 400mm, omitting the second floor loft accommodation. These 5 dwellings will now comprise 3 bedrooms rather than 4.
 - Plots 5-9 at the rear have been relocated 1.4m to the east.
 - Site boundaries have been revised with the proposed development now set 200mm closer to the southern side boundary.

3. RELEVANT HISTORY

BH2015/02049 - Demolition of existing house and garage and erection of 9 no. four bedroom houses. Refused on 1 December 2015 for the following reasons;

1. The proposed development by reason of its design is out of keeping with the prevailing character of the area and does not emphasise its positive

characteristics in terms of prevailing density, height, scale, bulk and relationship to adjoining dwellings contrary to policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan 2005.

2. The proposed development by reason of its height and proximity to no. 6 Court Ord Road would result in an unneighbourly development contrary to policy QD27 of the Brighton & Hove Local Plan 2005. Planning permission was granted at appeal **APP/Q1445/W/16/3142069** on 17 November 2016.

BH2001/02258/FP - Replacement conservatory and alterations to porch to side and rear of the property. Approved 30/10/2001.

BH2000/00327/FP - Erection of single storey addition and first floor extension with balcony. Approved 14/03/2000.

4. REPRESENTATIONS

- 4.1 **Neighbours:** 32 representations have been received from 4, 6, 12, 17, 19, 21, 25 Court Ord Road, 29 Eley Crescent, 15, 16, 34, 45, 67, 69 Eley Drive, 5, 17, 40 Elvin Crescent, 61, 63, 71 Falmer Road, 3 Court Ord Cottages, 63 Meadow Close, 22 Chailey Avenue, 3, 10, 12, 17 Court Farm Road, 7 St Aubyns Mead, 16 The Rotyngs, 16 Rowan Way, 74 Saltdean Drive and one **unspecified address** objecting to the application for the following reasons:

- The developer has not addressed the previous reasons for refusal,
- Height, scale, architectural detailing, bulk, layout, density and design out of character with the area. Proposal does not integrate well into its context and the development would fail to emphasise and enhance the positive qualities and particular characteristics of the area and would set a precedent for garden in-fill and upward development of properties,
- Impact on neighbours in terms of noise and disturbance, loss of views, loss of privacy, overlooking, over-shadowing, loss of light/direct sunlight and outlook,
- Density analysis inaccurate,
- Increased highway / road safety impacts,
- Increased noise and pollution from vehicular movements,
- Increased traffic and congestion. Assumption that Rottingdean Village can simply absorb increased traffic is an unsustainable policy, given the present transport infrastructure,
- Lack of parking and increased parking stress,
- Not a sustainable transport location,
- Proximity of proposed properties to existing dwellings,
- Lack of electric vehicle charging points, below SPD14 standards,
- Provision of solar panels would add height and bulk above the already excessive roof-line of the proposed houses,
- Would not comply with Lifetime Homes standards,
- Has been no pre-application consultation with neighbours,
- Proposal is contrary to Local Planning Policy,

- Negative impacts of the proposed development far out-weigh any potential contributions to the area,
- Loss of views to the South Downs National Park. Would appear unduly prominent in strategic views into and from the South Downs National Park and Beacon Hill Nature Reserve,
- An existing lamp post falls in the proposed access-way,
- Development does not allow generous gaps, spacings or good sized gardens, they are much less typical in the area,
- Inaccuracies in plans and misleading comments in application documents,
- Application quotes Winton Cottages as a precedent however neighbouring terrace of houses that were built to be in keeping with the terrace known as Court Ord Cottages. Winton Cottages have a public highway on both sides so were not built to fit in between existing houses and as such should not be used as a precedent,
- Development goes against the Council's aims for new buildings 'to make a positive contribution to the visual quality of the environment',
- Will devalue neighbouring properties in area whilst 'making someone rich at the expense of the community',
- Loss of trees, flora and fauna would have a negative impact on local ecology,
- Over-development. Development is too dense for the area, the local plan for this area indicates the need for smaller properties. Additional homes are not in line with local housing needs identified in the emerging Rottingdean Neighbourhood Plan and the supporting 2015 Housing Needs Survey, in terms of the size and potential affordability of the proposed units being sold on the open market. Development will not help with housing target as new homes already built in the area are unsold,
- Would serve as a precedent for even further development in a small village,
- Lack of drainage, increased flood risk and effect on water run-off.
- The proposed waste storage and collection point would be very close to the kitchen/diner and back door of no. 71 Falmer Road, resulting in excess noise, loss of privacy, hygiene concerns and an unpleasant outlook,
- Absence of a viable plan to dispose of foul sewage is a risk to the proposal,
- Increased pressure on local amenities and infrastructure. Area has one small overused doctor's surgery and 3 oversubscribed schools, need better infrastructure to support new residential development. Council should consult local doctors, dentists and schools before granting planning permission,
- Seems to be a determination to build in Rottingdean. Rottingdean has its own geographical constraints coupled with conservation issues making it very difficult to build in, development should be restricted to brownfield sites only,
- 9 properties crammed into such a space is environmentally unsound,
- Access for emergency services is too restricted for the number of properties proposed,

- Pollution levels in Rottingdean Village High Street already exceed the acceptable levels required by EU regulations and are a serious health risk to residents in the village. Allowing development would knowingly be acting ultra-vires by encouraging even greater non-compliance with statutory EU legislation and increased poor air quality,
- Will not have a positive effect on the local Rottingdean community or environment.
- Proposed 6ft acoustic fence will result in loss of light to kitchen, diner and downstairs toilet windows and front garden area of no. 71 Falmer Road and loss of view of Falmer Road when exiting existing driveway of no. 71 creating safety implications,
- Loss of security for adjoining properties,
- No. 71 is obliged to retain the existing hedges along the borders of the garden and provide legal boundary with neighbouring gardens,
- Will set a precedent for the area, which will have a negative impact on the future character of Rottingdean,
- View from front of development will be negatively impacted upon having general waste and recycling bins situated at front of the development and clearly visible from road. There is no precedent for such positioning and not in keeping with character of houses in area. Concerned about potential odour from such facilities especially in hot weather,
- Dwellings do not provide a mix of accommodation to suit the needs of the community,
- No party wall agreements,
- Proposal does not accord with SPD14.

- 4.2 **Councillor Mary Mears:** Objects to the proposal. Email attached.
- 4.3 **Simon Kirby MP:** Objects. Concerns are raised about the high density of the development, increased traffic congestion and air pollution, adverse environmental impact of the loss of trees and the detrimental impact of the development on neighbouring amenity.
- 4.4 Understands that the development would also necessitate a number of trees at the site being felled which would be regrettable and would have adverse environmental impacts.
- 4.5 Has been contacted by a number of constituents with their specific concerns about this application; they feel that the buildings' impacts on neighbouring properties will be significant and that this revised application differs very little from that which was refused at the site by BHCC at the end of 2015.
- 4.6 Rottingdean Parish Council: Object. A similar application has previously been refused. Nine dwellings of this scale is too large a development for the plot. The proposal would result in harm to the amenity of adjoining properties. Traffic volumes are already excessive and have led to air pollution in the High Street above EU limits. There is no mention of the infrastructure needs, schools are already at capacity, GP services are stretched, dentists similarly.

5. CONSULTATIONS

5.1 **County Ecologist:** No objection

The proposed development will require a European Protected Species Mitigation Licence.

Provided the recommended mitigation measures are implemented, the proposed development is unlikely to have any negative impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and the NERC Act.

5.2 **East Sussex Fire and Rescue:** Comment

Please ensure that access and facilities for the Fire and Rescue Service are provided in accordance with B5 of the Approved Document B Vol. 1 to the Building Regulations, Section 11: Vehicle Access, whereby there should be vehicle access for pump appliance to within 45m of all points within each dwellinghouse.

5.3 **South Downs National Park:** No objection

(from application BH2015/02049) - No objection to the principle of the proposed development of 9 dwellings, although the SDNP would recommend that if the existing trees along the frontage were not able to be retained, suitable replacement trees in a similar location were planted in order to maintain the semi-rural character of the urban edge, which forms the boundary with the South Downs National Park.

5.4 **Arboriculture Team:** No objection

The proposal will result in the loss of several trees and shrubs, nevertheless these are not considered worthy of Tree Preservation Order status.

There is no objection subject to suitable conditions being attached to any planning consent granted.

5.5 **Environmental Health:** No objection

(From application **BH2015/02049**) Whilst drawings show a new acoustic fence which separates the access to the properties from 71 Falmer Road, it is not clear how long or how high this particular fence would be.

5.6 An acoustic fence works on the principle of being long, thin and rigid, with no breaks (or gaps) and additionally breaking the line of sight. If line of sight is compromised, there will only ever be approximately a 5dB loss, regardless of how the fence is built (i.e. brick, timber etc.).

5.7 Therefore, with the lack of detail, would support that a condition is necessary to have further details. What is also unclear is the extent of the fence line and whether this surrounds the whole development or not. A condition could also include or rather incorporate that any scheme is also to the satisfaction of the transport team. This may assist in achieving the compromise in terms of heights and visibilities in what locations.

5.8 Air Quality - Recommend approval. This is a small development of 9 houses, the impact on air quality will be negligible.

5.9 **Flood Risk Management Officer:** No objection

The LLFA has no objections to the proposed development provided no development shall take place until a detailed design of surface water drainage for the site using sustainable drainage methods, as per the Flood Risk Assessment dated August 2015, has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to building commencing.

5.10 It should be noted that the site is defended by the New Barn Valley flood defences; however there is still a residual risk of flooding present.

5.11 **Sustainable Transport:** No objection

The Highway Authority would not wish to restrict grant of consent of this planning application subject to the inclusion of the necessary conditions and informative. The application is largely the same in highways and transport terms to the similar scheme reference BH2015/02049 which was recently allowed on appeal.

5.12 Given the uplift in trip generation and impact on the highway, a sustainable transport contribution of £12,000 is sought in accordance with the council's standard contributions formula. This will be allocated to footway and public transport improvements in order to ensure that the development serves the needs of pedestrians and public transport users in accordance with policy CP9 of the Brighton & Hove City Plan Part One.

5.13 In addition, a scheme of residential Travel Plan measures is recommended in order to ensure the development maintains a sustainable transport strategy and to comply with policies CP9 of the Brighton & Hove City Plan Part One and TR4 of the Brighton & Hove Local Plan.

6. MATERIAL CONSIDERATIONS

6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

- 6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- SA5 The South Downs
- CP1 Housing delivery
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design
- CP14 Housing density
- CP18 Healthy city
- CP19 Housing mix
- CP20 Affordable housing

Brighton & Hove Local Plan (retained policies March 2016):

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- QD5 Design - street frontages
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD18 Species protection
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:

- SPD06 Trees & Development Sites
- SPD11 Nature Conservation & Development
- SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of the proposed development, the impacts of the proposed development upon the visual amenities of the area including the setting of the South Downs National Park, the living conditions for future occupiers and the impact upon the amenities of the neighbouring properties. Sustainability, ecology, flood risk and transport impacts are also relevant.

- 8.2 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.3 **Planning History:**
A similar proposal for 9 dwellings was refused in November 2015 on the grounds that the design would be out of keeping with the prevailing character of the area and that there would be an unneighbourly impact on the adjoining property to the rear, No.6 Court Ord Road. The scheme was subsequently allowed on appeal in November 2016.
- 8.4 In regards to design the Inspector stated, 'I conclude that the appeal proposal would not adversely affect the character or appearance of the locality and would generally accord with CP Policies CP12 and CP14.'
- 8.5 In relation to neighbour amenity the Inspector stated, 'I conclude that the appeal development would not adversely affect the living conditions of neighbouring occupiers, with regard to daylight, sunlight, outlook, overlooking or noise and disturbance.'
- 8.6 It is considered that the principle of 9 dwellings on the site has thus been established through application **BH2015/02049**.
- 8.7 **Design and Appearance:**
The general scale, density, mass, bulk and design approach have been established through the recently approved scheme for nine dwellings (**BH2005/02049**). The re-siting of the dwellings 200mm closer to the southern side boundary in comparison to the approved scheme would not materially alter this relationship and is considered acceptable.
- 8.8 The dwellings on plots 5-9 have been reduced in height and set further away from the rear boundary. This has a minimal impact on the design and the appearance of the proposed development in comparison to the approved scheme and is considered acceptable.
- 8.9 Overall the proposal is considered to have an acceptable impact on the appearance and character of the site and the wider surrounding area, including the setting of the South Downs National Park.
- 8.10 **Impact on Amenity:**
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

- 8.11 In comparison to the approved scheme plots 1-4 would be sited 200mm closer to the southern boundary of the site. There is still considered to be sufficient separation between the development and the adjoining property, No. 63 Falmer Road to ensure that there would not be any significant harm to this property by way of overshadowing, loss of light, outlook and privacy or an unacceptable overbearing impact.
- 8.12 The proposed dwellings to the rear of the site, plots 5-9, in comparison to the approved scheme are lower in overall height, are set in from the boundary and do not have accommodation at second floor level. It is considered these dwellings would have a lesser impact on the adjoining properties in comparison to the approved scheme and the proposal is acceptable in this regard.
- 8.13 Overall the proposed scheme would have an acceptable impact on the residential amenity currently enjoyed by the occupiers of the neighbouring properties.
- 8.14 Further details of the acoustic report are to be secured by condition and subject to the acceptability of these details the proposed would not result in harm to neighbouring amenity by way of noise and disturbance.
- 8.15 **Sustainable Transport:**
The proposal would result in a net increase of eight dwellings on the site which would lead to a sizeable uplift in trip generation compared to the existing situation. The Sustainable Transport Team are satisfied that the proposal would have an acceptable highways impact subject to a legal agreement providing for a contribution of £12,000 for footway / bus stop improvement and a residential travel plan and also conditions relating to secure cycle parking / disabled parking, details of the acoustic fence, site access details and crossover and parking implementation and retention.
- 8.16 **Standard of accommodation:**
Policy QD27 of the Brighton & Hove Local Plan will not permit development which would cause a material nuisance or loss of amenity to the proposed, existing and/or adjacent users, residents or occupiers where it would be liable to be detrimental to human health.
- 8.17 The proposed units would provide rooms of sufficient size for their function with adequate circulation space. There is considered to be satisfactory levels of natural light, outlook and privacy for future occupiers and the overall standard of accommodation provided is considered to be acceptable.
- 8.18 The level of private amenity space is considered acceptable in relation to the scale of the development, in accordance with policy HO5.
- 8.19 Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within

the national Optional Technical Standards. Step-free access to the (new-build) dwellings appears to be achievable; therefore, relevant conditions are attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

8.20 Sustainability:

City Plan Part One policy CP8 requires new residential development demonstrate efficiency in the use of water and energy, setting standards that mirror the national technical standard for water and energy consumption. Conditions are applied to ensure the development meets these standards as set out in policy CP8.

8.21 Affordable Housing:

CP20 of the City Plan Part One (adopted 24 March 2016) requires developments of between 5 and 9 (net) residential units to provide 20% affordable housing as an equivalent financial contribution. In this instance, based on the methodology set out in the Developer Contributions Technical Guidance Paper (approved by Economic Development & Culture Committee on 16 June 2016) the 9 new units (8 net) the representative provision of affordable housing would be 1 four bedroom dwelling and 1 three bedroom dwelling which in Zone 2 equates to a total contribution of £501,250.

8.22 The general approach to the calculation is set out in the Council's Developer Contributions Technical Guidance. The commuted sum payment is based on a sum equal to the difference between Open Market Value and Affordable Housing Value.

8.23 During the appeal for the approved scheme (BH2015/02049) the applicant submitted a Viability Assessment which was assessed by the District Valuer. The appraisal considered that due to specific site constraints that the development could not viably provide for the full contribution and a lower amount was put forward. A signed section 106 agreement setting out this agreed contribution was provided at appeal stage. The Inspector considered that a financial contribution for affordable housing was necessary, in accordance with CP20 and planning permission granted on this basis.

8.24 In the current application a Viability Assessment has also been submitted setting out that there are site specific circumstances that would render a policy compliant scheme unviable.

8.25 The District Valuer's independent assessment of the applicant's Viability Assessment concludes that the development could viably provide a financial contribution of £30,000 if piling is not required. If the applicant provides evidence that the ground conditions are such that piling is required then the DV's assessment indicates that the proposed development cannot provide a financial contribution towards Affordable Housing.

8.26 The applicant has agreed to the principle of this review mechanism and this can also be secured in the s106 agreement.

- 8.27 The council acknowledges that national planning policy and guidance as set out in the Written Ministerial Statement (WMS) of November 2014 and National Planning Policy Guidance (NPPG, paragraphs 21- 23) with respect to affordable housing contributions and the application of Vacant Building Credit (VBC) are significant material considerations which should be taken into account in decision taking.
- 8.28 Following the recent Court of Appeal decision (11 May 2016) regarding these matters, BHCC note that the provisions of national policy are not mandatory and that local circumstances may justify an appropriate exception to the approach outlined in national policy and guidance. In applying Development Plan Policy CP20 Affordable Housing, BHCC consider that there are specific and genuine local circumstances that justify an exception to national policy and guidance as set out in the WMS (November 2014) and NPPG (paragraphs 21- 23). This is specifically in terms of NPPG regarding site size thresholds for affordable housing contributions and the application of VBC.
- 8.29 In summary, those local circumstances constitute:
- The significant need for affordable housing in the city
 - A constrained housing land supply
 - The nature of land supply in terms of high residential delivery from smaller sites and brownfield site conversions, changes of use and redevelopment including vacant buildings.
- 8.30 The council therefore consider that the provisions of Policy CP20 will therefore apply to this application and the proposal is in accordance with this policy.
- 8.31 **Other Considerations:**
Whilst it is noted that there is an Emerging Rottingdean Neighbourhood Plan, the draft plan has not yet been published and very limited weight can be attached at this stage.
- 8.32 Representations have been received that outline concerns relating to ownership issues on the boundaries of the site. The applicant has provided revised site plans clarifying the boundaries and has stated that they consider that the correct ownership certificates have been signed on the application form.

9. EQUALITIES

9.1 The development is required to comply with Part M of the Building Regulations and conditions are proposed which will ensure compliance with lifetime homes standards.

9.2 S106 HEADS OF TERMS

- A Transport Contribution of £12,000 to be allocated towards footway improvements on Falmer Road in the vicinity of the site, including, but not limited to, the junctions with New Barn Road and Court Farm Road

and/or bus stop accessibility improvements at stops to the south of the development site.

- A Residential Travel Plan to promote sustainable transport to and from the site
- An affordable housing contribution of £30,000 in the event the Ground Investigation Report concludes that piling is not required as part of the Development

PLANNING COMMITTEE	Agenda Item 98 Brighton & Hove City Council
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Information on Pre-application Presentations and Requests 2017

Date	Address	Ward	Proposal
tbc	West Blatchington Primary School, Hangleton Way, Hove	Hangleton & Knoll	Redevelopment to provide new secondary school and junior school.
tbc	King's House, Grand Avenue, Hove	Central Hove	Part demolition, conversion and construction of new buildings to provide 180 residential units.
tbc	St Aubyns School, 76 High Street, Rottingdean	Rottingdean Coastal	Re-development of school campus and part of school playing field.
13 th December	Preston Barracks/Mithras House/Watts Car Park, Lewes Road, Brighton	Hollingdean & Stanmer and Moulsecomb & Bevendean	Mixed use development comprising research laboratory, student accommodation, University teaching facilities, residential, retail and parking.
11 th October	Hollingbury Industrial Estate – Units 2 & 8, Crowhurst Road, Brighton	Patcham	Northern part of site - demolition of existing building & construction of a two storey car dealership building. Southern part of site – conversion into a single or a series of trade counter and/or builders merchants.
13 th September	Life Science Building, Sussex University	Hollingdean & Stanmer	17,000sqm teaching space and café.
13 th September	Boots, North Street/Queen's Road, Brighton	St Peters & North Laine	Demolition of existing building and construction of new retail store.
2 nd August	Medina House, 9 Kings Esplanade, Hove	Central Hove	Demolition of existing building and construction of a new dwelling.
2 nd August	Land at Blackman Street/Station Street/Cheapside, Brighton	St Peters & North Laine	Proposed new B1 office building.
12 th July	Land South of Ovingdean Road, Brighton	Rottingdean Coastal	Outline planning application with appearance reserved for the construction of new dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open

NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in King's House on the date given after scheduled site visits unless otherwise stated.

			space and strategic landscaping. New vehicular access from Ovingdean Road and junction improvements.
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PLANNING COMMITTEE

Agenda Item 100 Brighton & Hove City Council

Planning application no:	BH2015/04273
Description:	Outline application with some matters reserved for 9 detached houses and access with maintenance and protection of the existing chalk grassland meadow to the north.
Decision:	AWAITING DECISION
Type of Appeal	Public Inquiry against Non- Determination
Date:	1 st November 2016, Brighton Town Hall
Site Location:	Wanderdown Road, Ovingdean

Planning application no:	BH2014/03715
Description:	Application for variation of condition 1 of application BH2011/02857 to vary the hours of operation of the store to read: The store shall not be open for trading to the public except between the hours of 08:00 and 22:00 on Monday to Saturday, and 10:00 to 16:00 on Sundays and Bank Holidays. Staff may be within the premises between the hours of 07:00 and 23:00 hours on Mondays to Saturdays and 09:30 to 17:30 on Sundays and Bank Holidays.
Decision:	Dismissed 14 th Dec 2016
Type of Appeal	Informal Hearing against conditions imposed
Date:	10 November 2016
Site Location:	Aldi Stores, 7 Carlton Terrace, Portslade

Planning application no:	BH2014/03394
Description:	Demolition of existing house and stables and construction of 32 no. dwellings comprising of 4 two bedroom flats and 28 two storey two, three and four bed dwellings incorporating open space and landscaping works, parking and creation of access road from Falmer Avenue with other associated works. Creation of new pedestrian link between Falmer Avenue and South Downs Footpath.
Decision:	AWAITING DECISION
Type of Appeal	Public Inquiry against Refusal
Date:	29 th November 2016, Hove Town Hall
Site Location:	6 Falmer Avenue, Saltdean

Planning application no:	BH2015/01471
Description:	Demolition of existing Grade II listed building (approved under BH2013/03927) and construction of a new part 3/part 7 storey building (plus basement) to form 70no one, two, three and four bedroom self-contained residential units (C3) and incorporating commercial units (A1/A2/B1) in the basement and on the ground floor fronting Gloucester Place, a community room (D1) on the ground floor fronting Blenheim Place together with refuse/recycling facilities, cycle storage and other associated works.
Decision:	
Type of Appeal	Informal Hearing against Refusal (downgraded from Public Inquiry)
Date:	14th December, Jubilee Library

PLANNING COMMITTEE

Agenda Item 100 Brighton & Hove City Council

Site Location:	The Astoria 10-14 Gloucester Place Brighton
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Planning application no:	2013/0323
Description:	Works not permitted development
Decision:	INQUIRY CANCELLED
Type of Appeal	Public Inquiry against Enforcement
Date:	20 th December 2012, Brighton Town Hall
Site Location:	43 Freshfield Road, Brighton

Planning application no:	BH2015/04087 & BH2015/04088
Description:	Conversion of hotel (C1) to form 4no studio flats, 3no one bedroom flats and 1no two bedroom maisonette (C3) with associated alterations including rear extension at second floor level.
Decision:	
Type of Appeal	Informal Hearing against Refusal
Date:	21 th December, Hove Town Hall
Site Location:	Neo Hotel, 19 Oriental Place, Brighton

PLANNING COMMITTEE

Agenda Item 101 Brighton & Hove City Council

Planning application no:	BH2015/04273
Description:	Outline application with some matters reserved for 9 detached houses and access with maintenance and protection of the existing chalk grassland meadow to the north.
Decision:	AWAITING DECISION
Type of Appeal	Public Inquiry against Non- Determination
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Site Location:	Wanderdown Road, Ovingdean

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PLANNING COMMITTEE

Agenda Item 101 Brighton & Hove City Council

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Site Location:	Neo Hotel, 19 Oriental Place, Brighton

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I – THE PARADE, VALLEY DRIVE, BRIGHTON – WITHDEAN 245

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Application BH2016/00416 - Appeal against refusal to grant planning permission for conversion of existing six bedroom house to 2 no 1 bedroom flats and 1 no 3 bedroom maisonette, including construction of external staircase to rear. **APPEAL DISMISSED** (delegated decision)

Appeal Decision

Site visit made on 9 August 2016

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2nd December 2016

Appeal Ref: APP/Q1445/W/16/3149441

**Ground Floor Flat, 46 St Andrews Road, Portslade, Brighton and Hove
BN41 1DE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Farzin Sobhanpanah – Park Avenue Estates Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03071, dated 20 August 2015, was refused by notice dated 15 February 2016.
 - The development proposed is conversion of ground floor flat into 2 flats (one 1-bed flat and one 2-bed flat) and replacement of fence with new wall.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion of ground floor flat into 2 flats (one 1-bed flat and one 2-bed flat) and replacement of fence with new wall at ground Floor Flat, 46 St Andrews Road, Portslade, Brighton and Hove BN41 1DE in accordance with the terms of the application, Ref BH2015/03071, dated 20 August 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TA 910/01; TA 910/02; TA 910/03; TA 910/04; TA 910/05A; TA 910/10A; TA 910/11; TA 910/12; and TA 910/13.
 - 3) Prior to the occupation of the development hereby permitted, details of secure cycle parking facilities shall be submitted to and approved in writing by the local planning authority. Secure cycle parking facilities shall be implemented in accordance with the approved details prior to the occupation of the development hereby permitted and shall be retained and made available for cycle parking thereafter.
 - 4) Prior to the occupation of the development hereby permitted, the refuse facilities indicated on the approved plans shall be provided. The refuse facilities shall be retained and made available for their intended use thereafter.
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Preliminary matters

2. Subsequent to the date of the Council's Decision Notice, the Brighton and Hove City Plan Part One (City Plan) was formally adopted by the Council in March 2016. Nevertheless, the saved policies of the Brighton and Hove Local Plan 2005 (Local Plan) referred to in the reasons for refusal have not been superseded by the policies contained within the City Plan and therefore continue to form part of the development plan for the City. I am therefore satisfied that the adoption of the City Plan does not materially alter the reasons for refusal as set out on the Council's decision notice and I have determined the appeal on this basis.
3. The appellant claims that the appeal property is currently in use as a House in Multiple Occupation (HMO). I observed that the room identified as a dining room on the submitted plans is currently being used as a bedroom. Nevertheless, I have not been provided with any substantive evidence to demonstrate that the current tenants are not members of the same family, that the use of the dining room as a bedroom is not a temporary arrangement or that the use of the appeal property as a HMO is its current lawful use. Moreover, the description of the proposed development provided by the appellant makes reference to the conversion of a flat rather than a HMO. I have therefore considered the appeal on the basis of the submitted plans which show the appeal property to comprise a three bedroom dwelling suitable for family accommodation.

Main issue

4. The main issue is the effect of the proposal on the provision of family living accommodation within the City.

Reasons

5. The appeal property comprises a three bedroom flat on the ground floor of 46 St Andrews Road, a three storey corner property located within a wider residential area. The Council sets out that there is a high demand in the City for smaller units of accommodation suitable for family occupation and it is important to retain this housing stock as a result.
6. Part of the proposal seeks to replace an existing fence with a new wall. The Council's delegated report and decision notice indicate that the proposed wall is not a matter of contention for the main parties and no other parties have commented on this element of the proposal. I also consider that the proposed wall would be an appropriate addition to the appeal property.
7. The proposal also seeks to convert the existing flat into one, one bedroom self-contained flat and one, two bedroom self-contained flat. Saved Policy HO9-Residential Conversions and the Retention of Smaller Dwellings, of the Local Plan, seeks to resist conversions which would involve the loss of smaller dwellings suitable for family accommodation. However, saved Policy HO9 allows for the conversion of dwellings into smaller units of self-contained accommodation, subject to a number of criteria. The Council accepts that the proposal would meet most of the criteria of saved Policy HO9, including a criterion to provide a two bedroom flat that would provide a unit suitable for family accommodation. I have no substantive reasons that would lead me to conclude otherwise.

8. However, the Council considers that criterion (a), of saved Policy HO9, would not be met. This criterion stipulates that the conversion of a dwelling is acceptable provided that the original floor area is greater than 115 square metres (sqm) or the dwelling has more than 3 bedrooms as originally built. Footnote 1, of saved Policy HO9, excludes later additions such as extensions, garages and loft conversions from the original floor area.
9. There is no dispute between the main parties that the dwelling originally contained three bedrooms. The dispute between the main parties arises in respect of the original floor area. The appellant asserts that the original floor area equates to 118sqm, including some extensions and an area of basement. The Council considers that the original floor area falls short of the 115sqm threshold, even if the extensions could be included in the floor area, given that the area of basement is not a habitable room and should not, in their opinion, be included as floor area calculations as a result.
10. The planning history of the appeal property does not tell me when the extensions were constructed, though the appellant alleges they were constructed in 1966, prior to the conversion of No 46 into flats. Without any substantive evidence to the contrary, I have no substantive reasons to consider this is incorrect. Indeed, it was clear from my observations that the extensions were not recent additions to the appeal property. In addition, Footnote 1 of saved Policy HO9, whilst excluding later additions, does not exclude basements from the overall floor area, whether they comprise habitable rooms or otherwise. Therefore, based on the evidence before me, I have no substantive reasons to conclude that the appellant has not reached a reasonable and accurate conclusion in respect of the size of the original floor area of the appeal property.
11. As a result, I conclude that the proposal would not have a harmful effect on the provision of family accommodation in the City and would comply with saved Policy HO9, of the Local Plan.

Other matters

12. At the time the Council determined the original planning application, it was unable to demonstrate a five year supply of housing land. The appellant considers that, notwithstanding the adoption of the City Plan, the Council's housing land supply situation has not materially changed. The Council has not provided any substantive evidence to contradict the appellant's claim on this matter. If this is indeed the case, the proposal would make an important, albeit limited, contribution to housing supply in the City, which would weigh in favour of the proposal. On the other hand, even if the Council can now demonstrate a five year supply of housing land, this matter would not be a sufficient reason for withholding planning permission for a development that would otherwise comply with the development plan as a whole. Moreover, it would assist with maintaining a high quality supply of housing in the City in a location with a good level of access to local services and facilities.
13. I acknowledge the concerns of a third party in respect of parking stress and adding additional height to the building. However, the proposal does not seek to add any additional height to the building. With regard to parking stress, the Council's Highway Department raised no concerns in this regard. Based on the evidence before me, I have no substantive reasons to take a different view.

Conditions

14. The Council has not provided any suggested planning conditions. I have therefore imposed the planning conditions that I consider are necessary. I have sought the views of the main parties in respect of these conditions and have considered any comments received.
15. In addition to the statutory time limit condition, a condition specifying the relevant drawings is necessary as this provides certainty. A condition relating to cycle parking is necessary in the interests of sustainable transport. A condition relating to refuse storage is necessary in the interests of efficient waste disposal.
16. Whilst I note that the Council's Environmental Health Officer recommended a contaminated land condition, given that the proposal would not involve any significant ground works, I do not consider that such a condition is necessary in this instance.

Conclusion

17. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed.

Alex Hutson

INSPECTOR

Appeal Decision

Hearing held on 10 November 2016

Site visit made on 10 November 2016

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 December 2016

Appeal Ref: APP/Q1445/W/16/3145987

Aldi Store, 7 Carlton Terrace, Portslade, Brighton BN41 1XF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Aldi Stores Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2014/03715, dated 4 November 2014, was refused by notice dated 28 January 2016.
 - The application sought planning permission for mixed use development comprising food retail unit and residential units without complying with a condition attached to planning permission Ref BH/2010/01684 (as amended by planning permission BH2011/02857 dated 7 December 2011).
 - The condition in dispute is No 1 which states that: The store shall not be open for trading to the public except between the hours of 08.00 and 20.00 on Monday to Saturday, and 10.00 and 16.00 on Sundays and Bank Holidays. Staff may be within the premises between the hours of 07.00 and 21.30 hours on Mondays to Saturdays, and 09.30 to 17.30 on Sundays and Bank Holidays.
 - The reason given for the condition is: To allow satisfactory operation of the store and to protect the residential amenities of the occupiers of the flats above the store and to comply with policy QD27 of the Brighton and Hove Local Plan.
-

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Aldi Stores Ltd against Brighton & Hove City Council. This application is the subject of a separate Decision.

Preliminary matter

3. In addition to the formal site visit on the afternoon of 10 November an unaccompanied site visit was carried out on 22 August from 19.15 to 20.30 hours to observe the store and its car park during the close down period.

Main Issue

4. The main issue is the effect of the proposed extended hours on the living conditions of nearby residents in relation to noise and disturbance.

Reasons

Background

5. The Aldi Store at Portslade is situated beyond the railway at the northern end of the district shopping centre. The purpose built store lies on the western side of Boundary Road, a busy thoroughfare, with its surface car park behind a row of three storey buildings which have commercial uses on the ground floor and flats above. There are also twelve flats on the first floor immediately above the store which are known as Ronuk House.
6. The original planning permission in 2006 set the opening hours of the store as 08.00 to 20.00 hours Monday to Saturdays and 10.00 to 16.00 on Sundays and Bank Holidays. Vehicular movements and deliveries to the store were confined to the period between 07.30 and 20.30 Mondays to Saturdays with none on Sundays or Bank Holidays.
7. Subsequently, in 2011, these conditions were varied on appeal¹ to allow staff to be within the building to carry out ancillary activities between 07.00 and 21.30 Monday to Saturdays and 09.30 and 17.30 on Sundays and Bank Holidays. In conjunction with this a new condition was attached restricting use of the refuse compactor to the opening hours of the store. One main delivery and one milk delivery were also allowed on Sundays and Bank Holidays.
8. The current proposal is to extend the opening hours of the store on Monday to Saturday evenings to 22.00 (two hours later than now) with cleaning and restocking to be allowed in the building until 23.00 hours (one and a half hours later than now). No changes are proposed on Sundays or to delivery times, and the hours of operation of the refuse compactor would remain as now.

Noise and disturbance

9. The Aldi Store is a popular shopping facility which due to its layout and use causes noise and disturbance to the occupiers of nearby residential properties. Designed from the outset as a mixed use building, there are twelve flats immediately above the store, five of which have living rooms and/or bedrooms directly overlooking the surface car park and the passage where customers collect and push trolleys to and from the store entrance. The surface car park also occupies a backland position behind a row of buildings which have several residential flats at first and second floor level directly overlooking the car park and a small number overlooking the passage.
10. During trading hours the car park generates noise and disturbance with residents reporting a constant turnover of cars manoeuvring, engines starting, doors slamming, car alarms, car radios, trolleys rattling and people talking/shouting. Delivery lorries also back up to the loading bay through the car park several times a day. Customers with their trollies pass through the passage to and from the store entrance and the trolleys are stacked in this space, immediately below Ronuk House flats 4-6 and the flat(s) above 9 Carlton Terrace. In addition, opening and closing the security shutters at the beginning/end of the day, moving pallets of goods for sale and staff arrivals/departures all occur in this area. The residents also report incidents of anti-social behaviour near the entrance to the store.

¹ APP/Q1445/A/11/2145260 following a split decision by the Council

11. In order to assess noise from the car park the appellant undertook a survey one evening in September 2012. From this it was calculated that the noise from the car park during the last hour of trading was about 43 dB L_{Aeq} , and when added to the background noise (about 48-50 dB L_{Aeq}), it would add only about 1 dB L_{Aeq} , an imperceptible amount. However, dB L_{Aeq} is an average noise measure and as such does not accurately reflect the disturbance from car park noises which are individual events, not continuous. Loud noise events up to 71.8 dB L_{Amax} were measured in the car park during the last hour of trading, although the source is not noted. The survey did show that background noise in the area steadily reduces as the evening progresses and this was also my impression on 22 August.
12. The appellant argues that the noise from the car park is well within the World Health Organisation (WHO) Guidelines² of 55 dB L_{Aeq} for a good level of amenity during the day³ and that an extra 1 dB L_{Aeq} would be imperceptible. However, the WHO guideline and 1 dB L_{Aeq} figure relate to steady, continuous noise which does not correspond to the noise arising from a car park. Noise incidents from the car park are both noticeable and disruptive to those living nearby and it was noted at the hearing that a car door slam at 10 m would be about 68 dB, well above the WHO guideline for a noise liable to cause sleep disturbance outside an open bedroom window⁴.
13. The adjacent residential flats are just a few metres away from the nearest car park spaces and there is no intervening screening. The rooms concerned are single aspect living rooms and bedrooms where the occupiers would expect to be able to leave windows open for ventilation, especially in summer. In this context the noise and disturbance arising from the activity in the car park is a significant cause of annoyance for surrounding residents during trading hours and an additional two hours of activity each evening, twelve hours each week, would add materially to this annoyance.
14. The twelve flats in Ronuk House are also liable to noise and disturbance arising from within the store itself. The residents state in their representations that they can hear various noises depending on their position above the store and the time of day. It is said that the tills can be heard together with internal doors banging, staff voices, the public address system and stock movements across the floor. The most serious issues however relate to the rear of the store where flats 8-12 extend over the storage/delivery bay; the living room and bedroom of flat 8 look out over the delivery bay itself.
15. Several deliveries are made each day when the unloading bay shutter is raised, a lorry backs in, goods are unloaded by lift and then moved and stacked by truck until needed in the store. This process happens immediately below the windows of flat 8 and is noisy and disruptive. Whilst the proposal would not change the times when deliveries are permitted an increase in trading hours may marginally increase the number required to service the store.
16. Residents state they can hear goods being moved around by truck within the storage/delivery bay throughout the period when staff are in the store. In addition, the refuse compactor in the bay, which compresses waste boxes, can

² World Health Organisation Guidelines for Community Noise

³ Although the WHO state that the guideline value for evenings should be 5 – 10 dB lower than the daytime

⁴ 60 dB L_{Amax} outside a bedroom with the window open, equivalent to 45 dB L_{Amax} inside the bedroom

- clearly be heard⁵. This machine, sited immediately below flats 9-10, is operated intermittently throughout the day as required.
17. The appellant's second acoustic report attempts to assess the level of noise and disturbance within the flats from these sources. The Council's Environmental Health Officer (EHO) requested noise measurements be taken within the flats themselves, but due to the level of ongoing conflict between Aldi and the residents this was not possible. Instead, noise measurements were taken below the store ceiling and assumptions made about the noise reduction of the building structure based on the construction plans of the intervening floor.
 18. Noise levels within the store when open were up to 62.8 dB LAeq, 82.2 dB LAmax, with the noise above the compactor significantly greater at 82.0 dB LAeq, 94.3 dB LAmax. During the closed period the store is quieter except when the floor cleaner is used which measured 66.8 dB LAeq, 75.7 dB LAmax. After the assumed noise reduction of the building is taken into account the noise levels within the flats are estimated to be up to 10 dB LAeq, 26 dB LAmax above the store, 23 dB LAeq, 34 dB LAmax above the compactor and 10 dB LAeq, 21 dB LAmax when the cleaner is in use. These estimated noise levels are said to be well below the BS8233⁶ and WHO guidelines which are 35 dB LAeq during the day, 30 dB LAeq during the night and for peak noise 45 dB LAmax.
 19. On this basis, the appellant claims that the noise from internal activity within the store does not cause a significant adverse impact to the residents and that the extended operating hours are therefore acceptable. The Council's EHO agrees with this view, but it is strongly disputed by the residents themselves.
 20. It is deeply regrettable that actual measurements from within the flats are not available because the findings of the acoustic report are only based on a purely theoretical calculation. Noise levels within the store and particularly when the compactor is being used are high, well above BS8233 and WHO guidelines, so the sound insulation performance of the intervening floor is critical. If there are weaknesses in the construction of the building or the architectural plans are inaccurate actual noise levels would be higher. Indeed, the Council's EHO suggests a 5 dB adjustment should be made which illustrates the uncertainty surrounding this methodology.
 21. The report is based on the noise guidelines in BS8233, but subclause 7.7.1 makes clear that these relate to noise sources without a specific character, otherwise known as 'anonymous' noise. BS8233 guideline figures are for steady noise sources, whereas most noises from the store are intermittent and irregular, and thereby attract attention. As the document observes, occupiers are usually more tolerant of noise without a specific character than, for example, that from neighbours which can trigger complex emotional reactions. The disturbance from living above or adjacent to the Aldi store and its car park should be considered neighbour noise, and thus an assessment against the guidelines in BS8233 has only limited value.
 22. Noise policy in paragraph 123 of the National Planning Policy Framework, Planning Practice Guidance and the Noise Policy Statement for England (NPSE) seeks to promote a good quality of life as well as good health. Quality of life is a subjective measure of wellbeing, whilst the WHO guidelines are based on the

⁵ Established by the Council's Environmental Health Department following complaint Ref 2015/01859/NOF/EH

⁶ British Standard BS 8233:2014: Guidance on sound insulation and noise reduction for buildings.

- lowest levels of noise that affect health. Reflecting this complexity, the NPSE states it is not possible to have a single objective noise-based measure that is mandatory and applicable to all sources of noise in all situations, and it does not endorse any specific standards.
23. It is evident that many of the residents living above and adjacent to the Aldi store and its car park find the activity generated by the operation of the store noticeable and disruptive. However, the store is located on a busy road and forms part of a district centre where some disturbance is inevitable and to be expected during the daytime. In this case the issue is whether the noise and disturbance which arises should be allowed to continue into the late evening.
 24. The residents complain that the existing conditions relating to the store are regularly breached. In particular, deliveries arrive before and after permitted times, staff arrive early and leave late (when the shutters are operated) and the compactor is used outside trading hours. In addition, maintenance/building work is sometimes carried out during the night, albeit with prior warning being given. Due to the close proximity of the residents, breaches which occur in the early morning and evening are both obvious and annoying. The evidence is that they occur from time to time, indeed the compactor seems to have been used outside permitted hours in the lead up to the hearing⁷. The conditions are precise and enforceable in theory, but to be observed each and every day they rely on a level of management control that may be unrealistic in practice given the pressures of running a successful, busy store in a congested built up area.
 25. The practicality of stopping the use of the compactor at 20.00 if the store is trading until 22.00 and staff are restocking until 23.00 and from 07.00 next morning is not clear. There appear to be breaches of this condition at present and there is limited space to store uncompressed boxes awaiting compaction.
 26. Portslade District Centre lies mostly to the south of the railway and few other businesses in this part of Boundary Road are open into the evening. As a result, in the evenings the car park is used primarily by Aldi customers and on 22 August the last few cars left soon after 20.00. In addition, as pointed out by the Council, the traffic on Boundary Road reduces in the evenings and as the noise readings confirm the whole area becomes successively quieter. In this context, extended trading hours to 22.00 would become increasingly noticeable to local residents with noise and activity in the car park at 22.00 being significantly more disruptive than at 20.00. In addition, staff would leave and the shutters come down at 23.00 instead of 21.30 when quiet is expected and it would be more intrusive to nearby occupiers trying to sleep.
 27. In relation to noise generated within the store, as well as two hours extra trading, staff would be in the building until 23.00 six nights a week. Whilst many noises would be relatively low level, there is potential for the compactor to be used and other loud noises for as long as staff are in the building. This would also be increasingly disturbing to occupiers of the flats above, which include children and shift workers, the later it goes on into the evening.
 28. Government policy in relation to noise is to avoid significant adverse impacts on health and quality of life and to minimise other adverse impacts on health and quality of life, including through the use of conditions. The appellant's view is that the operation of the store does not have an adverse impact and

⁷ Diary of events log submitted at the hearing

hence extended hours are acceptable, but I do not agree. The noise standards that have been quoted are not as applicable to this case as has been suggested albeit there do not appear to be any agreed standards for neighbour noise.

29. There is no clear evidence of adverse impacts on health, but considerable evidence of the impact of the store on the quality of life of nearby residents. Residents report having to keep windows closed in summer and turn up the TV or radio to avoid distraction. Even if not a significant impact which should be avoided, this amounts to an adverse impact which should be mitigated and reduced to a minimum by the use of conditions. The hours of operation are one such condition, and my conclusion is that the impact of extended hours six evenings a week would have an unacceptable effect on the living conditions of nearby residents. This would be contrary to Policies QD27 and SU10 of the Brighton & Hove Local Plan 2005 (BHLP) which preclude development which would cause material nuisance and loss of amenity to adjacent residents and require the impact of noise on the occupiers of neighbouring properties to be minimised by the imposition of planning conditions.

Planning Balance and Conclusions

30. Noise and disturbance should not be considered in isolation. The store is well located at one end of the district shopping centre and, particularly during the day when other shops are open, the store adds to the vitality and viability of the centre and encourages linked trips. Policy SR5 of the BHLP, which aims to enhance shopping areas, supports the proposal. Aldi has grown as a business in recent years and the store trades well. Longer opening hours are needed to respond to modern shopping trends, serve the public more effectively, help ease pressure on the store at peak times, bring the operation in line with other Aldi stores and enable it to compete on an even footing with its competitors. Extended opening would therefore have significant social and economic benefits for the local community, increasing competition and providing more jobs.
31. These are important benefits but they need to be weighed against the additional noise and disturbance that would result for adjacent occupiers. It was agreed at the hearing that some conflict between the operation of the store and nearby residents is inevitable given the mixed use nature and location of the development. In the light of the evidence my conclusion is that the current balance between these conflicting interests, as reflected in the conditions attached to the planning permission, strikes the right balance and should be retained unchanged.
32. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alistair Close MRTPI, Planning Potential

Grace Mollart MRTPI, Planning Potential

Gary King MIOA, Sharps Redmore

FOR THE LOCAL PLANNING AUTHORITY:

Councillor Les Hamilton, South Portslade Ward

Jonathan Puplett MRTPI, Principal Planning Officer

INTERESTED PERSONS:

Angie Ross, Local resident, Ronuk House

Hugh Corley, Local resident, Ronuk House

DOCUMENTS SUBMITTED AT THE HEARING

Diary of Events Log and letters from Aldi Stores Ltd (submitted by Angie Ross)

Costs Decision

Hearing held on 10 November 2016

Site visit made on 10 November 2016

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 December 2016

Costs application in relation to Appeal Ref: APP/Q1445/W/16/3145987 Aldi Store, 7 Carlton Terrace, Portslade, Brighton BN41 1XF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Aldi Stores Ltd for a full award of costs against Brighton & Hove City Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for mixed use development comprising food retail unit and residential units without complying with a condition attached to planning permission Ref BH/2010/01684 (as amended by planning permission BH2011/02857 dated 7 December 2011).
-

Decision

1. The application for an award of costs is refused.

The submissions for Aldi Stores Ltd

2. The application for costs was submitted in writing. At the hearing the appellant maintained the application and confirmed that the condition limiting the hours of operation of the refuse compactor would remain as now.

The response by Brighton & Hove Council

3. The Council's response was also made in writing. At the hearing it was reiterated that the Planning Committee were entitled to take into account the representations of local residents directly affected and that these views carry significant weight. The Council's decision was therefore reasonable.

Reasons

4. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. In this case the appellant argues that the Council acted unreasonably in refusing the application contrary to the advice of its environmental health and planning officers. It is claimed that the Council prevented or delayed a development that should clearly be permitted, failed to provide any objective or technical evidence to justify its decision and only made vague and inaccurate assertions unsupported by any objective analysis.
6. The Council, acting in its role as local planning authority, is not bound to accept the advice of its officers providing there are reasonable grounds for taking a

- contrary decision. In this case, the Council did not provide a supporting statement but relied on the minutes of the Planning Committee and the representations of local residents, elaborating upon these at the hearing.
7. The officer's recommendation was based upon two acoustic reports prepared by the appellant, the first relating to noise from the car park and the second noise generated within the store. However, the first report was not accepted by the Council's Environmental Health Officer (EHO) as it failed to include any internal noise measurements in nearby properties and only assessed noise within the car park on the basis of dB LAeq measurements when individual noise events assessed in terms of dB LAmax would have been more appropriate.
 8. The second report was based on noise measurements within the store but, due to the level of ongoing conflict between Aldi and the residents, it was not possible to take measurements within the Ronuk House flats. Whilst not the appellant's fault, this meant that the noise levels within the flats were only estimated on the basis of the assumed noise reduction of the intervening floor. Although the Council's EHO accepted this methodology, the lack of actual measurements in the flats was a significant weakness in the report. Furthermore, noise and disturbance from the car park was not revisited.
 9. The Planning Committee had to consider this evidence alongside the detailed representations of local residents, made both in writing and verbally at the meeting. These related to noise and disturbance from both the car park and internally from the store, and also complaints that the existing conditions were not being complied with, including the hours of operation of the compactor. Albeit not made in terms of quantitative noise measures, these observations were objective evidence and not vague, generalised or inaccurate assertions.
 10. The representations of the residents were properly given weight as they have direct, first-hand experience of the operation of the store from close quarters. The first acoustic report had shortcomings and the second was based on theoretical calculations rather than actual readings. In these circumstances it was reasonable for the Planning Committee to be unconvinced by the acoustic reports, the advice based upon them, and whether the revised condition would be effective in limiting the impact on nearby residents. The reason for refusal was very clear as to the matter in dispute.
 11. An appeal statement in support of the Council's position would have been desirable as the minutes of the meeting can only give a brief impression of the discussion. However, this was not unreasonable in itself.
 12. It is understandable that the appellant was disappointed in the Council's decision having gained a favourable recommendation from its officers, but the Council was entitled to take a contrary view and it was reasonable to rely on the evidence of local residents to support its case at appeal. The action to refuse permission and pursue the case was not therefore unreasonable.
 13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

David Reed

INSPECTOR

Appeal Decision

Site visit made on 15 November 2016

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2016

Appeal Ref: APP/Q1445/D/16/3160171

4 Ivy Place, Hove BN3 1AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Vic Ellison against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01155, dated 31 March 2016, was refused by notice dated 19 July 2016.
 - The development proposed is a rear first floor extension and a second floor terrace.
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Decision

1. The appeal is allowed and planning permission is granted for a rear first floor extension and a second floor terrace at 4 Ivy Place, Hove BN3 1AP in accordance with the terms of the application, Ref BH2016/01155, dated 31 March 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers M 97/01 rev. B, M 97/02 rev. F, M 97/03 rev. C, M 97/04 rev. A, M 97/10 rev. C, M 97/11 rev. C and M 97/12 rev. C.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the effect of the proposed terraces on the living conditions of neighbouring occupiers at 5-9 Golden Lane and surrounding dwellings with particular regard to noise and privacy.

Reasons

3. Ivy Place is located within Brunswick Town Conservation Area, a densely developed area of Brighton, with a number of modest dwellings set in close proximity to one another. No. 4 is a mid-terrace three storey property that extends to the rear boundary with gardens of properties on Golden Lane. Those properties have two storeys above ground level to the rear, with small rear gardens. Consequently, the gardens are dominated by the surrounding built development.
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4. The proposal would replace the existing rooflight above the study with a glass roof that would form the floor to extend the existing terrace across the rear of the property. At first floor the existing rear projection would be extended across part of the existing terrace to the rear of the property and an additional terrace would be provided on the roof of the rear part of the first floor. Both terraces would be provided with obscure glazed screens to ensure occupants using the rear terraces would not overlook neighbouring rear gardens, as they can from the existing first floor terrace. Whilst the obscure glazed screen may not wholly overcome any perception of overlooking of neighbouring occupiers, the reduction in overlooking from the existing terrace would outweigh that limited harm.
5. Given that there would be additional space on the proposed rear terraces, occupants may use them more than at present. However, this would not have a material effect on the amount of additional noise emanating from the terraces.
6. As a result, I conclude that the proposed terraces would not have a material adverse effect on the living conditions of neighbouring occupiers at 5-9 Golden Lane and surrounding properties with particular regard to noise and privacy. As such, the proposed development complies with Policies QD14 and QD27 of the Brighton and Hove Local Plan (LP) that seek to protect the living conditions of neighbouring occupiers.
7. Given the orientation of the property such that the rear elevation faces south and the limited height of the proposed development in comparison to the existing building, I do not consider that the proposed extension would cause overshadowing of surrounding properties.
8. Given the modest size and design of the proposed development to the rear of the property, it would preserve the character and appearance of the Brunswick Town Conservation Area, in accordance with Policy HE6 of the LP that seeks to preserve or enhance the character or appearance of conservation areas.

Conditions

9. I have imposed a condition specifying the relevant drawings as this provides certainty. A condition is necessary for materials to match those used on the existing house to maintain the character and appearance of the area.

Conclusion

10. On the basis of the above considerations, I conclude that the appeal should succeed.

AJ Steen

INSPECTOR

Appeal Decision

Site visit made on 15 November 2016

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2016

Appeal Ref: APP/Q1445/D/16/3160023

42 Tongdean Road, Hove BN3 6QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Matthew Simpkin against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/02473, dated 1 July 2016, was refused by notice dated 13 September 2016.
 - The development proposed is rooms in the roof, raise the roof and extend the ridge to form gable with glazed Juliet balcony. Single storey side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed roof extension on the character and appearance of the existing building.

Reasons

3. Tongdean Road rises steeply up the hill and comprises detached houses of similar character, although a variety of designs. These houses are of similar size with similar pitches to their roofs such that the ridges of the hipped roofs step in a gradual, if not wholly uniform, progression up the hill.
 4. The proposal would provide a steeper pitch to the roof, with a higher ridge and greater depth over the existing flat roofed section and to the proposed gable end at the rear which results in a much greater bulk to the roof of the house. That greater bulk would be visible in the approach up the hill as well as from surrounding properties and gardens. In addition, the height of the proposed roof would affect the rhythm of the ridges as they step up the slope of the hill and increase the prominence of the proposed development. The proposed extensions to the roof would alter the proportion of roof to the remainder of the dwelling, which presently reflects that of surrounding houses. As a result, the proposed increase in height, depth and bulk of the proposed roof would appear incongruous and dominate the existing dwelling.
 5. I note that other houses in the street have significant areas of roof, including feature gable ends and large roof planes that extend down to the ground floor facades, similar to the steep pitched roof above the garage of 42 Tongdean
-

- Road. However, these are not as prominent as they have a similar pitch that ensures they retain the gradual progression up the hill.
6. For these reasons, I conclude that the proposed roof extension would harm the character and appearance of the existing building, contrary to Policy QD14 of the Brighton and Hove Local Plan that seek to ensure that extensions and alterations to existing building, including the formation of rooms in the roof, are well designed in relation to the property to be extended.
 7. I understand that the proposed development follows an earlier refusal for roof extensions comprising dormer windows to either side of the dwelling and the present scheme seeks to overcome the earlier reasons for refusal. I have been provided with limited details of that scheme and, in any event, I need to consider the current proposal on its individual merits.
 8. The Council have not identified any harm from the proposed single storey extension to the side of the property and I see no reason to disagree with their conclusions on this matter.
 9. On the basis of the above considerations, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR

Appeal Decision

Site visit made on 1 November 2016

by **David Reed BSc DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 December 2016

Appeal Ref: APP/Q1445/W/16/3152366

Hove Business Centre, Fonthill Road, Hove, East Sussex BN3 6HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Nigel McMillan, Pearl & Coutts against Brighton & Hove City Council.
 - The application Ref BH2014/03742, is dated 6 November 2014.
 - The development proposed is the creation of 4 no. 1 bed flats, 4 no. 2 bed flats and 1 no. 3 bed flat on the roof of the existing building, removal of redundant industrial pitched roof lights and creation of new ground floor link between the front and rear of the building.
-

Decision

1. The appeal is allowed and permission is granted for the creation of 4 no. 1 bed flats, 4 no. 2 bed flats and 1 no. 3 bed flat on the roof of the existing building, removal of redundant industrial pitched roof lights and creation of new ground floor link between the front and rear of the building at Hove Business Centre, Fonthill Road, Hove, East Sussex BN3 6HA, in accordance with the terms of the application, BH2014/03742, dated 6 November 2014, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr Nigel McMillan, Pearl & Coutts against Brighton & Hove City Council. This application is the subject of a separate Decision.

Preliminary matter

3. The application was not determined within the prescribed period but the Council subsequently resolved there would have been one reason for refusal.

Main Issue

4. The main issue is whether the proposal should provide for a contribution towards affordable housing.

Reasons

Background

5. The proposal is for a row of nine flats to form an additional storey on the flat roof of Hove Business Centre, a part three part four storey building which runs

parallel to the railway line near Hove Station. The Council accept the principle of the development and resolved to grant planning permission subject to a Section 106 agreement on 9 December 2015. This agreement, which provides for a residential travel pack and financial contribution towards sustainable transport, was finally submitted on 28 April 2016.

6. In the meantime, on 24 March 2016, the Council adopted the Brighton & Hove City Plan Part One (CPP1) following an examination. This introduced a new policy, CP20, requiring affordable housing on sites of five or more dwellings. As the application was still undetermined, the Council sought a financial contribution in accordance with this new policy, notwithstanding that Government policy to waive any requirement for affordable housing on sites of ten dwellings or less was reintroduced on 11 May 2016¹. The appellant then made clear his opposition to any financial contribution towards affordable housing and appealed against non-determination.

Affordable housing

7. Policy CP20 of the CPP1 requires sites of between 5 and 9 dwellings such as this to provide 20% affordable housing in the form of a financial contribution. In a graduated approach, larger sites of 10+ and 15+ dwellings are required to provide 30% and 40% affordable housing respectively. In accordance with the Council's Developer Contributions Technical Guidance the sum sought is £241,500, sufficient to provide two one-bedroom units off site.
8. However, Policy CP20 is in conflict with Government policy as expressed in the Written Ministerial Statement (WMS) of 28 November 2014 and Planning Practice Guidance (PPG), which state that affordable housing and tariff style planning obligations should not be sought from developments of 10 units or less and which have 1000 m² or less floorspace². The policy, which is intended to prevent a disproportionate burden on small scale developments, allows for a lower threshold in certain rural areas but otherwise allows no flexibility.
9. The WMS was successfully challenged in the High Court on 31 July 2015 and a declaration issued that it must not be treated as a material consideration in planning decisions; however this decision was reversed by the Court of Appeal on 11 May 2016 when the WMS was reinstated as a material consideration and PPG was updated accordingly. It was during the period when the WMS was suspended, on 24 March 2016, that the Council adopted Policy CP20.
10. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Policy CP20 forms part of the development plan, whilst the WMS and PPG are a material consideration. However, as the WMS and PPG came into effect after the adoption of the CPP1 and Policy CP20, it represents the latest expression of national policy and carries very considerable weight in the balancing exercise.
11. Policy CP20 was drawn up and adopted in the light of strong evidence of the need for affordable housing in Brighton & Hove. The current objectively assessed need for affordable housing is put at 11,528 plus 810 pa. This is actually more than the likely delivery of all housing types in the City which is only 660 pa given the tight geographical constraints which apply. First time buyer houses are 9.6 times average earnings. In addition, schemes of less

¹ by decision of the Court of Appeal – see explanation in paragraph 9

² PPG Paragraph 031 Reference ID: 23b-031-20160519

- than 10 units deliver over 50% of new housing in the City, so if such sites do not contribute towards affordable housing its delivery will be seriously affected.
12. In this context, the Inspector who examined the CPP1 endorsed the policy³. She noted that the approach was supported by a study into its effects on the viability of housing development⁴ and furthermore that the policy itself includes a degree of flexibility to allow site specific circumstances, including viability, to be taken into account. Policy CP20 therefore complies with paragraph 173 of the National Planning Policy Framework (NPPF) which requires the scale of obligations and policy burdens to not threaten the viability of development⁵.
 13. The case for affordable housing contributions on sites between 5 and 9 houses in Brighton and Hove is therefore strong, and Policy CP20, as part of the recently adopted CPP1, should therefore also be afforded substantial weight.
 14. The appellant does not argue that the contribution requested would threaten the viability of the scheme in this case, but that the WMS and PPG should take precedence as a matter of principle. Importantly, Policy CP20 was adopted during the period when the WMS was not a material consideration; it was not therefore tested when the WMS was in force. On the contrary, the Council's Proposed Modifications published in June 2015 put forward changes to make Policy CP20 consistent with the WMS, but these were subsequently withdrawn after the High Court judgement.
 15. In the light of these Proposed Modifications it is likely that Policy CP20 would have been modified if the WMS had remained in force throughout. The Council did not seek to pursue its preferred policy as an exception to the WMS. In any event, the WMS and PPG represent later, national policy, that unambiguously define when a disproportionate burden would be placed on a small development. There is flexibility in some rural areas but noticeably not urban areas or large cities. The aim is to boost small-scale housing schemes generally, and brownfield sites in particular, and, notwithstanding the undoubted need for affordable housing in Brighton & Hove, I see no reason why the WMS and PPG should not apply.
 16. For these reasons I conclude, on balance, that national policy in the WMS and PPG should outweigh Policy CP20 of the CPP1. Consequently, a financial contribution towards affordable housing is not required.
 17. The Council have drawn my attention to one appeal decision, in Elmbridge, where development plan policy for affordable housing was held to outweigh the WMS/PPG⁶. On the other hand, I have been supplied with nine appeal decisions in four local authority areas which prefer the WMS/PPG over local policy. However, none of these appeals relate to Brighton and Hove, where the need for affordable housing and the development plan will reflect unique local circumstances, so they do not set a precedent for this case.

Other matters

18. The proposal raises a large number of other issues which have been carefully considered by the Council over a lengthy period of time. These include the

³ Paragraphs 38 and 39 of the Report to Brighton and Hove City Council dated 5 February 2016

⁴ Affordable Housing Viability Study Update 2012

⁵ The Combined Policy Viability Study Update 2014 deals with the overall obligation and policy burden

⁶ APP/K3605/W/16/3146699

principle of adding an additional floor to a locally listed building, the effect on the setting of the Hove Station Conservation Area and Grade II listed Hove Station, the detailed design and appearance of the flats, the standard of accommodation which would be provided, the potential for noise disturbance affecting occupiers of the new flats, the impact on the living conditions of nearby residents, the effect on existing businesses in the building, and the implications for sustainable transport and sustainability. The Council are satisfied that, subject to conditions and a planning obligation, the proposal is acceptable in relation to all these matters and I see no reason to disagree.

Planning Obligation and Conditions

19. The Council sought a contribution of £6,750 towards sustainable transport infrastructure in the vicinity of the development and the provision of a residential travel pack together with membership of a car club for occupiers of the scheme. A signed unilateral undertaking has been submitted dealing with these matters and this is now dated. The Council has confirmed that the limit of five contributions being used for any one infrastructure project is not breached. The appellant now appears to dispute the need for the undertaking but this was not a ground of appeal and by only raising the matter at final comments stage there was no opportunity for the Council to respond.
20. No parking spaces would be provided for the residents of the flats despite the scheme generating the need for an estimated five spaces. Given the pressure on parking spaces in the area there is a need to promote sustainable travel and the financial contribution and other measures are therefore necessary, directly related to the development and fair and reasonable in scale and kind⁷. I am therefore satisfied that the measures in the undertaking are legitimate and justified in this case, and comply with Policy CP9 of the CPP1 which seeks to promote a sustainable transport system.
21. The Council has proposed a number of conditions should the appeal be allowed. I have assessed these against the relevant tests, amending them where necessary, and have also taken account of the appellant's objections. I agree there is no need for a condition related to potential contamination as the site is above ground.
22. In addition to the standard implementation time limit it is necessary to define the plans which have been approved in the interests of certainty. Conditions to control the materials to be used and the balcony screens and railings are necessary to ensure the development has a satisfactory appearance. Further conditions to restrict access to the flat roof and ensure the west facing window is obscure glazed/non opening are necessary to protect the living conditions of nearby occupiers. A Construction Environmental Management Plan is required in view of the constrained nature of the site and the need to tailor construction arrangements to the specific local context. Traffic routing can be controlled through construction contracts.
23. Notwithstanding the submitted noise assessment it is necessary to impose enforceable conditions to ensure the acoustic environment and ventilation in the flats provide satisfactory living conditions for future occupiers. A condition requiring submission of details of the ground floor entrance doors is necessary

⁷ The three tests in the Community Infrastructure Regulations 2010 and paragraph 204 of the National Planning Policy Framework.

as the current proposal appears to conflict with the needs of the existing business units. A scheme for a segregated footway within the car park is required to reduce pedestrian/vehicular conflict in the interests of pedestrian safety, a planning concern whether or not on highway land. Storage facilities for refuse/recycling and cycle parking are necessary to ensure a satisfactory development and to encourage sustainable transport respectively.

24. Finally, conditions are necessary to comply with Policy CP8 of the CPP1 to ensure enhanced energy performance⁸ and water efficiency and Policy HO13 of the Brighton & Hove Local Plan 2005 to ensure accessible and adaptable dwellings⁹. The latter two are optional requirements in the building regulations which are triggered by a condition on a planning permission.
25. A number of these conditions need to be discharged before work commences on site as these are fundamental to a satisfactory scheme.

Conclusion

26. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

⁸ Equivalent to Code for Sustainable Homes Level 4 for Energy Use as permitted by the Written Ministerial Statement dated 25 March 2015

⁹ Interpreted by reference to the nearest equivalent national technical standard (M4(2)).

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site plan 13-113-01 rev A
 - Existing block plan 13-113-02 rev A
 - Proposed block plan 13-113-03 rev B
 - Existing ground and roof plans 13-113-04 rev A
 - Existing south, north and west elevations and section A-A 13-113-05 rev A
 - Proposed ground and roof plans 13-113-06 rev D
 - Proposed south, north and west elevations and section AA 13-113-07 rev C
 - Proposed roof plan/flat layouts 13-113-08 rev C
 - Part front elevation 13-113-09 rev B
 - Part rear elevation 13-113-10 rev B
 - Proposed section A-A 13-113-11 rev C
 - Existing and proposed front elevation 13-113-12 rev B
- 3) Prior to the commencement of the relevant part of the development samples of the following materials to be used in the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority:
 - a) samples of the cladding and roofing materials
 - b) samples of the proposed window and door treatmentsDevelopment shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of the relevant part of the development full details of the design, materials and finishes for the balcony screens and railings, and their relationship with the parapet roofline, shall be submitted to and approved in writing by the local planning authority. Development shall then be carried out in accordance with the approved details.
- 5) Other than amenity spaces to the front of the building as detailed on drawing nos 13-113-06 rev.D and 13-113-08 rev.C, access to the flat roof of the building shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
- 6) The window in the west side elevation of the development hereby permitted shall be obscure glazed and non-opening, and thereafter permanently retained as such.
- 7) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include:
 - a) a scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with, reviewed and recorded (including details of any considerate constructor or similar scheme)
 - b) a scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management, vibration,

site traffic and deliveries to and from the site

c) details of hours of construction including all associated vehicular movements

d) details of the construction compound

e) a plan showing construction traffic routes

The construction shall be carried out in accordance with the approved CEMP.

- 8) All glazing within the residential units hereby permitted shall achieve a minimum performance of 33dB Rw, and shall be retained as such thereafter.
- 9) Prior to first occupation of the residential units hereby permitted, an acoustic report shall have been submitted to and approved in writing by the local planning authority indicating that an assessment has taken place to determine whether the soundproofing measures between the dance studio and the flats above has achieved a minimum performance of 70dB Rw. If the levels are not met, the report shall provide information on the further mitigation measures needed and a timeline within which these will be carried out to ensure that the levels are achieved. The flats shall not be brought into use until the minimum performance of 70dB Rw has been reached and agreed in writing by the local planning authority.
- 10) Prior to development commencing, the applicant shall submit a written scheme for approval to the local planning authority on how and where ventilation will be provided to the various flats including specifics of where the clean air is drawn from and that sufficient acoustic protection is built into the system to protect end users of the development. The scheme shall ensure compliance with Building Regulations as well as suitable protection in terms of air quality.
- 11) Notwithstanding the submitted details, the ground floor entrance doors shall not be installed until a revised opening arrangement that allows for access for larger goods and deliveries has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 12) No development shall commence until details of a scheme of works to provide a segregated footway within the Hove Business Centre car park from Fonthill Road to the new residential access has been submitted to and approved in writing by the local planning authority. The works shall be completed prior to the first occupation of the development hereby permitted and shall thereafter be retained.
- 13) The development hereby permitted shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
- 14) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.

- 15) None of the residential units hereby approved shall be occupied until a minimum energy efficiency standard of a 19% CO2 reduction against Building Regulations requirements Part L 2013 (TER Baseline) has been achieved.
- 16) None of the residential units hereby approved shall be occupied until the Buildings Regulations optional requirement part G paragraph 36 (2)(b), a water efficiency standard of 110 litres per person per day, has been achieved. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.
- 17) The new dwellings hereby permitted shall be completed in compliance with Building Regulations optional requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

Costs Decision

Site visit made on 1 November 2016

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 December 2016

Costs application in relation to Appeal Ref: APP/Q1445/W/16/3152366 Hove Business Centre, Fonthill Road, Hove, East Sussex BN3 6HA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Nigel McMillan, Pearl & Coutts for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the creation of 4 no. 1 bed flats, 4 no. 2 bed flats and 1 no. 3 bed flat on the roof of the existing building, removal of redundant industrial pitched roof lights and creation of new ground floor link between the front and rear of the building.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In this case, the appellant argues that the Council acted unreasonably in failing to determine the application in an acceptable timescale which meant that an appeal against non-determination was necessary. Secondly, the Council failed to give proper weight to the Written Ministerial Statement (WMS) dated 28 November 2014 and Planning Practice Guidance (PPG), instead giving undue weight to Policy CP20 of the Brighton and Hove City Plan Part One (the CPP1). The resulting decision to resist the development without a financial contribution towards affordable housing was unreasonable and this also led directly to the unnecessary expense of an appeal.
4. The determination of the application was initially delayed due to concerns regarding the robustness of the noise assessment submitted with the original application in November 2014. A second assessment was only submitted in October 2015 and the appellant agreed an extension of time to 31 December. The application was duly reported to committee within this timescale, on 9 December, when it was resolved to grant permission subject to a S106 agreement. The responsibility for drawing up the agreement is not clear, but the Council issued engrossments on 25 February 2016 after which the appellant took until 28 April to return the agreement to the Council.

5. The delays up to this point were therefore primarily the responsibility of the appellant, and by this time Policy CP20 of the CPP1 had been adopted. This raised the new issue of an affordable housing contribution, rapidly followed on 11 May by the Court of Appeal decision to reinstate the WMS as a material consideration. Given the then conflict between Policy CP20 and the WMS/PPG, it was not unreasonable for the Council to take until 6 June to consider their position before seeking a financial contribution towards affordable housing.
6. The delays in the determination of the application were not therefore primarily attributable to the Council and were not unreasonable in the circumstances.
7. Turning to the Council's decision to pursue an affordable housing contribution contrary to Government guidance in the WMS/PPG, this was based on the then recently adopted development plan Policy CP20. Whilst the WMS/PPG is a material consideration and post-dates Policy CP20, the latter still remains part of the development plan. Even if very considerable weight is given to the WMS/PPG, this does not automatically outweigh relevant policies in the development plan. The planning balance will depend on the evidence in each case and the local circumstances regarding affordable housing which by definition vary from place to place. The appellant's view that the WMS/PPG must prevail over the development plan is erroneous, indeed the Council drew my attention to one appeal decision in Elmbridge where the local need for affordable housing was treated as overriding¹.
8. Given the clear need for affordable housing in Brighton & Hove and the recently adopted Policy CP20 which supports a contribution, it was not unreasonable for the Council to pursue its argument to appeal. No previous appeal decisions within the Council's area relating to this matter were drawn to my attention.
9. The appellant raises the issue of housing land supply in the application for costs, but this is not relevant as nine flats would be provided whether or not a financial contribution is made towards affordable housing. The appellant also claims that he was improperly required to enter a S106 agreement, but this was not one of the grounds of appeal and is not substantiated.
10. Whilst the timing of the events in this case was undoubtedly unfortunate for both parties I do not find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated.

David Reed

INSPECTOR

¹ Other decisions considered the WMS/PPG should prevail, but the point remains valid.

Appeal Decision

Site visit made on 6th December 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12th December 2016

Appeal Ref: APP/Q1445/W/16/3154533

3 Knoyle Road, Brighton and Hove, BN1 6RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kevin Bush against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00173, dated 17 January 2016, was refused by notice dated 23 May 2016.
 - The development proposed is described as '*replacing roof over yard and garages*'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the Preston Park Conservation Area.

Reasons

3. The appeal site is located within a predominantly residential area of Brighton and Hove. It is also located within the Preston Park Conservation Area. I saw during my site visit that the significance of this part of the wider conservation area derives in part from the residential character of the area and also the domestic scale and appearance of the buildings.
 4. The appeal scheme seeks the erection of roof over a former double garage and yard area which is located to the rear of No 5 Knoyle Road, albeit within the red line site area of No 3 Knoyle Road. There is also a pair of garages which use the same access, although these are not part of the appeal site and I understand are separately owned. At the time of my site visit I saw that there is currently no roof structure on the appeal part of the site; although it is possible to see some scars on the supporting walls which indicate that there was previously a roof, there is no substantial evidence that shows what this roof may have looked like. In any case, I have considered the appeal proposal on the basis of its own planning merits.
 5. The proposed roof would cover both the two former garage bays and a concrete plinth that serves as a yard area. The roof would be about 100sqm in size, which although likely to cover an area not dissimilar to the earlier roof, would be a highly visible addition to the site where there is currently no roof and none for some time. The appellant has indicated that they are willing to agree with the Council different colours for the roofing materials.
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6. However, the roofing material would be formed by steel sheeting with rooflights or glazing sheets, and the visual effect, irrespective of its colour, would be more akin to what is normally found on industrial estates or commercial units rather than within a residential setting. The incongruence of the proposed roof would be further exacerbated by its overall size, which would be visible from a number of neighbouring properties, with some very limited views from Knoyle Road down the access passage. As such, the proposed roof would introduce an alien feature into the area, which would be at odds with the prevailing pattern and form of development.
7. The proposal would therefore harm the significance of the conservation area as a designated heritage asset; albeit this harm would be no more than less than substantial as set out in Paragraph 134 of the *National Planning Policy Framework* (the Framework). Nonetheless, considerable importance and weight should be given to the desirability to preserve heritage assets. In terms of public benefits, the appellant suggests that bringing the derelict piece of land back into use would contribute to public health and improve the appearance of the area. However, there appears to be little preventing anyone from undertaking activities such as sweeping up leaves and clearing any clutter from the site in order to improve its appearance. I do not, therefore, consider that the tidying up of the site is a public benefit in planning terms. Indeed, I do not find that any benefits put forward in this case would outweigh the harm identified.
8. Section 72(1) of the *Planning (Listed Buildings and Conservation Area) Act 1990*, as amended, indicates that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The combination of the roofing material, rooflight features and its overall size means that the proposed development would fail to preserve the character or appearance of the Preston Park Conservation Area by introducing an industrial appearing structure into an area mainly characterised by its residential nature and scale.
9. Accordingly, I therefore conclude that the proposal would conflict with Policy CP15 of the *Brighton & Hove City Plan Part One 2016* and Policy HE6 *Brighton and Hove Local Plan*, which, amongst other aims, seeks to conserve and enhance the city's historic environment in accordance with its identified significance. It would also be contrary to the policies set out in the Framework, which includes the aim to conserve heritage assets in a manner appropriate to their significance.
10. For the reasons given above, and having taken into account all matters raised including comments from interested parties, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR

Appeal Decision

Site visit made on 5 December 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16th December 2016

Appeal Ref: **APP/Q1445/W/16/3155279** **68A, St George's Road, Brighton BN2 1EF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr John Blake of Sussex Property investments Ltd against Brighton & Hove City Council.
 - The application Ref BH2016/00816, is dated 4 March 2016.
 - The development proposed is reconstruction of a building approved for use as a residential dwelling under application BH2014/0077.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The Council wrote to the appellant with a revised description of the proposal at the time the application was received and this amended description has been used on the appeal form. It described the development as 'demolition of existing office building and erection of 1no three bedroom dwelling (C3) to rear of site (part retrospective). I consider that this is a more accurate description of the proposal and have determined the appeal accordingly.
3. If the Council had determined the application, it has indicated that it would have refused it for three reasons. These related to the proposal's effect on the East Cliff Conservation Area, its effect on the living conditions of occupiers of adjoining dwellings and the quality of accommodation that would be provided in the new dwelling.
4. I am aware that the Council gave prior approval for a scheme to convert the building into a dwelling in 2014, Ref: BH2014/00776, (not Ref: BH2014/0077 referred to in the application form). However, the building has subsequently been demolished and this prior approval cannot now be implemented, regardless of the reasons for the demolition. Consequently, the prior approval carries little weight in my determination of the appeal proposal.

Main Issues

5. I therefore consider the main issues in this appeal are:
 - a) whether the proposal would preserve or enhance the character or appearance of the East Cliff Conservation Area;
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- b) the effect of the proposed development on the living conditions of the occupants of the adjoining properties in relation to privacy.
- c) whether the proposed dwelling would provide satisfactory living conditions for future occupants in relation to outlook.

Reasons

Character and appearance

6. The appeal site lies within the East Cliff Conservation Area. In assessing the proposal I therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that Area. As heritage assets are irreplaceable, any harm to them requires clear and convincing justification. The National Planning Policy Framework (the Framework) also advises that any harm that is less than substantial must be weighed against the public benefit of the proposal.
7. The appeal site is located on the southern side of St George's Road and is accessed through an undercroft opening between Nos 68 and 69. No 68 has accommodation that spans the site entrance. A two-storey office building that previously occupied the southern part of the site has been demolished and a new two-storey, pitched roof building has been partially erected in its place. There are existing buildings adjoining the eastern and southern sides of the site. Immediately to the west of the appeal site are two new dwellings which are accessed from Eastern Street, a narrow twitten that runs between St George's Road and Marine Parade. The site is therefore largely enclosed in a densely-developed neighbourhood of Brighton.
8. At present the site is hidden by an unsympathetic, metal, roller shutter, which has a harsh, utilitarian appearance. This was, in all probability, open during working hours when the site was in use as a vehicle repair garage. It would therefore not have appeared out of place in the context of the mix of commercial and residential uses in St George's Road. However, it would appear that entrance to the proposed dwelling would continue to be through this shutter and it could therefore remain shut for much of the time. The plans did not indicate any changes to the existing arrangement, as the site entrance is not shown on the submitted drawings. This shutter is not only an incongruous feature in an historic street, but in my view would be totally inappropriate as an entrance to a residential dwelling. Furthermore, if it remained closed for significant periods of time, its appearance would be detrimental to the wider appearance of the street.
9. If the shutter was open, the front elevation of the proposed dwelling would be viewed through the area beneath No 68. It would be the same width and height as the historic building that has now been demolished. Part of the ground floor previously appears to have been a partially open workshop. This area would effectively be filled in and a new ground floor front elevation constructed with an entrance door and a single window. On my site visit I saw that this wall was already in place, but the elevation was otherwise unfinished and partially obscured by scaffolding. However, the upper floor projects beyond the new wall. This gives the building an awkward appearance and makes the lower parts appear especially enclosed.

10. This combination of factors leads me to the view that the proposal would be harmful to the character and appearance of the building and the East Cliff Conservation Area, although in terms of the Framework this harm would be less than substantial. I acknowledge that the proposal would provide an additional dwelling which would make a minor contribution to the city's housing need. However, this small public benefit would be outweighed by the harm to the Conservation Area, a heritage asset.
11. I therefore conclude that the proposal would be harmful to the character and appearance of the East Cliff Conservation Area, which would not be preserved. It would therefore fail to comply with Policy CP15 of the Brighton & Hove City Plan Part One (City Plan) and saved Policy HE6 of the Brighton & Hove Local Plan (Local Plan). These policies, amongst other things, seek to preserve and promote the city's heritage assets by requiring development to demonstrate a high standard of design and detail and, where possible, seek to secure the removal of unsightly and inappropriate features.

Living conditions of neighbours

12. The ground floor patio doors, the external terrace and the windows in the first floor of the proposed dwelling would all look towards the habitable rooms in the rear of Nos 11 and 12 Eastern Street. This would result in a harmful loss of privacy for the occupants of these recently constructed dwellings, particularly given the close proximity of the buildings to one another.
13. Whilst there would have been some overlooking towards these dwellings from the former office, this was with fewer and smaller windows and associated with a different use. A residential use on the site would bring about occupation and overlooking during the evenings and at weekends, just when most people are expecting an increased degree of privacy.
14. Any use of the proposed external terrace in such close proximity to the rear of Nos 11 and 12 is also likely to give rise to unacceptable levels of noise and disturbance. The area between the buildings is not only small but also very enclosed. This would tend to exacerbate the harmful effects of any noise nuisance. In this context, I note that a number of local residents have raised concerns about existing noise levels associated with the use of Nos 11 and 12 for short term holiday lettings. This adds to my concern that further intensification of uses on this enclosed site within a densely-developed area would be likely to cause disturbance to existing and future residents in the immediate vicinity of the site.
15. I note that the Council has considered the possibility of screening to prevent harmful overlooking. However, this would restrict the light and outlook of both buildings and is therefore unlikely to be a suitable means of mitigation. In any event it would not address the issue of noise and disturbance.
16. I conclude that the proposed dwelling would be harmful to the living conditions of the occupants of Nos 11 and 12, as a result of an unacceptable loss of privacy and potentially harmful noise and disturbance. The proposal would therefore be contrary to Policies QD14, QD27 and SU10 of the Local Plan. All these policies, amongst other things, seek to protect the amenity of the city's residents.

Living conditions of future occupants

17. The outlook from the proposed dwelling would be predominantly to the west. This elevation would have patio doors serving the living room and windows for each of the bedrooms. These windows would all have restricted outlook due to the proximity of Nos 11 and 12. The lack of separation distance combined with the height and bulk of these buildings would make the proposed dwelling feel both dark and enclosed. There would be limited natural light and any sunshine would be restricted to short periods in the afternoon.
18. In addition there would be direct overlooking from the rear of Nos 11 and 12 towards the habitable rooms of the new dwelling. This would result in a lack of privacy for the occupants and is not a matter that could be mitigated through the use of obscure glazing without further reducing the outlook. The window in the north elevation would have a restricted outlook towards the street through the undercroft, increasing the sense of enclosure. In addition, any light reaching this area and the undercroft would be reduced by the projection of the first floor of the building beyond the front elevation at ground floor level.
19. Taking all these factors into account, I conclude that the proposal would provide unsatisfactory living conditions for future occupants, arising from lack of daylight, restricted outlook and lack of privacy. It would fail to comply with policy QD27 of the Local Plan, which seeks to protect the living conditions of future occupants of development. It would also be contrary to the core principle of the Framework to provide a good standard of amenity for all existing and future occupants of land and buildings.

Planning Balance and Conclusions

20. The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. Since this application was submitted the Council has adopted the City Plan. Its approach to providing much needed housing in the city, including its approach to assessing the five-year land supply was found to be sound. In any event, footnote 9 of paragraph 14 of the Framework indicates that development may be restricted when there are unacceptable effects on heritage assets. The benefits that would accrue from the provision of an additional house therefore attract little weight in this case, notwithstanding the similarities between the scale of the previous building on the site and the proposed replacement.
21. In addition, I have found that the proposal would fail to preserve the East Cliff Conservation Area, would be harmful to the living conditions of occupants of Nos 11 and 12, and would provide unsatisfactory accommodation for future occupiers. These are all matters which carry significant weight.
22. I therefore conclude that the proposal would be contrary to the City Plan and Local Plan and there are no material considerations that outweigh this conflict with the development plan. The proposal would not be a sustainable development and for this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

Appeal Decision

Site visit made on 5 December 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16th December 2016

Appeal Ref: APP/Q1445/W/16/3153272

Media House, North Road, Preston, Brighton BN1 6SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr C Weatherstone of Stonechris Properties Ltd against Brighton & Hove City Council.
 - The application Ref BH2015/03930, is dated 30 October 2015.
 - The development proposed is extension and alteration to form 4 residential units. Removal of existing mansard roof and front facing dormers. New roof with conservation roof lights. Parking, bike and bins storage and appropriate alterations.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Application for Costs

2. An application for costs was made by Stonechris Properties Ltd against Brighton & Hove City Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposed development on the supply of employment space in the city.

Reasons

4. The appeal site lies on the north side of North Road and comprises several buildings and a car park. Media House, is a substantial three-storey building whose lawful use is B1/B2. The ground floor was previously used as print works and the upper floors were offices. Attached to the western elevation of the main building is a two storey store. To the east the building is linked to Mission Hall, which is in residential use. On the western side of the site is a smaller, two-storey secondary building also in B1/B2 use, known as the Coach House.
 5. In 2014 prior approval was granted to convert the two upper floors of Media House into two self-contained residential units, Ref: BH2014/03962. While 198m² of B1 floorspace would have been lost through this conversion, the B2 use on the ground floor would have been retained. There is a dispute between the parties as to whether or not this permission remains extant due to more
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- recent changes to permitted development rights, a matter which I address later in this decision. However, the prior approval has not been implemented and at the present time the building is vacant.
6. In October 2015 planning permission was granted to facilitate the conversion of Media House into three dwellings and to extend the Coach House to provide an element of replacement office space on the site, Ref: BH2016/00544. Although this scheme would have led to the loss of all the employment floorspace within Media House, this would have been offset to some degree by the extension of the Coach House. Consequently, the scheme as a whole would have resulted in a net loss of 252m² of B1/B2 floorspace.
 7. The current proposal would also result in the loss of all the employment floorspace within Media House. However, no alterations to The Coach House form any part of the proposal, which would continue to provide 139.5m² of employment floor space. The scheme as a whole would therefore result in an additional net loss of approximately 50m² of employment floorspace, over and above that which would be lost with the approved scheme. It would also result in a loss of nearly 100m² more than would occur with the prior approval scheme. This would be the case regardless of whether or not that scheme could now be implemented as permitted development.
 8. Policy CP3 of the Brighton & Hove City Plan (City Plan) seeks to resist the loss of employment sites, given the city's need to create jobs. It states that where the last use of a site or premises was an employment use, changes of use will only be permitted when it can be demonstrated that they are redundant and incapable of meeting the needs of alternative employment uses.
 9. There was no evidence presented to demonstrate that the premises were genuinely redundant at the time the Council approved the previous application. The Council's willingness to set aside the requirement for evidence of redundancy in that case was two-fold. Firstly, that scheme included the enlargement and modernisation of the Coach House to provide better quality compensatory office accommodation and secondly, the scheme was considered to be a material improvement on that which had been given prior approval.
 10. However, whilst the previous prior approval and the extant permission are significant material considerations, they do not, in my view, amount to a demonstration that the site is redundant or incapable of meeting the needs of alternative employment uses. I acknowledge that the current proposal would only result in a small additional loss of floorspace. However, I do not consider that is a sufficient reason to set aside the requirements of the policy, which applies to all such sites and premises, irrespective of their size. Furthermore, the current proposal does not include any measures that would mitigate the loss of just under 300m² of employment space. Neither was it supported by any conclusive evidence that the building is genuinely redundant.
 11. I therefore conclude that the proposal would result in an unacceptable loss of employment floorspace, contrary to Policy CP3 of the City Plan, which seeks to ensure adequate provision of employment floorspace to support the economic growth and prosperity of the city.

Other Matters

Character and appearance

12. North Road lies within the Preston Village Conservation Area and opposite Nos 19-23, a terrace of 18th century dwellings, which is a Grade II Listed Building. In assessing the proposal, I therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, and a duty to have special regard to the desirability of preserving the setting of the listed building. As heritage assets are irreplaceable, any loss or harm to them requires clear and convincing justification.
13. The proposal would significantly improve the appearance of the building, over and above the extant scheme. In particular alterations to the roof would reduce its bulk, creating a form that would be more sympathetic to its surroundings. The altered building would be less intrusive in the street scene and would enhance the setting of the nearby listed building. The addition of the fourth dwelling would infill an uncharacteristically large gap in the existing street frontage, create a series of dwellings with consistent plot widths, which would integrate effectively with the traditional pattern of development that characterises this part of the conservation area. The proposal would therefore enhance the character and appearance of the Preston Village Conservation Area and the setting of Nos 19-23.

Housing need

14. The proposal would provide four new dwellings, which would make a small but valuable contribution to the city's housing need. The provision of family homes of the size proposed would also be meeting known needs. However, as the site already has an extant permission for three dwellings the proposal would only result in a net increase of a single dwelling.

Living conditions of neighbours

15. Residents of North Road have expressed concern about various matters including the effects of the westward extension of Media House on the light, outlook and privacy of their homes. North Road is narrow and the separation distance between the front elevations of the houses is less than in many other streets. However, I am satisfied that the separation distance is sufficient to prevent any material loss of light, outlook or unacceptable loss of privacy.

Planning Balance and Conclusion

16. The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. However, the Government is also committed to securing economic growth in order to create jobs and prosperity. The National Planning Policy Framework advises that significant weight should be placed on the need to support economic growth through the planning system.
17. The proposal would provide one more home in addition to the three that already have planning permission on the appeal site. This would be a social benefit, but as a single dwelling, this attracts little weight in my overall assessment.

18. The proposal would considerably improve the appearance of the Preston Village Conservation Area and enhance the setting of the listed terrace of houses on the south side of North Road, thus providing environmental benefits to the area. This is a matter of moderate weight.
19. However, it would result in the total loss of Media House for employment purposes without providing any compensatory improvements or provision elsewhere on the site. Given the city's need to provide for business and to allow the city to grow as an economic base for the wider area, the development plan requires this loss to be adequately justified before allowing a housing development to proceed.
20. On balance I consider that the social and environmental benefits of the scheme would be outweighed by the permanent loss of employment floorspace, for which there is inadequate justification. The other material considerations in this case do not, therefore, outweigh the conflict with the development plan's objective of supporting the city's economic growth.
21. For this reason, I conclude that the proposal is not a sustainable development and that the appeal should be dismissed.

Sheila Holden

INSPECTOR

Appeal Decision

Site visit made on 31 October 2016

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 December 2016

Appeal Ref: APP/Q1445/W/16/3153866

The Parade, Valley Drive, Brighton, Brighton & Hove BN1 5FQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Woodhart Carpentry Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03338, dated 15 September 2015, was refused by notice dated 15 January 2016.
 - The development proposed is the extension of existing terrace to form 1no. two bedroom maisonette to first and second floor access via communal passage way to the rear of 'The parade' from Gableson Avenue and mixed use unit to ground floor a with access from Valley Drive.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Two plans have been submitted with the appeal, drawing number 1325 02 which illustrates a two bedroom flat and drawing number 1325 02A that shows a one bedroom flat. The description of the proposal on the application form and decision notice describes the proposal to be a two bedroom maisonette. However, Informative 2 on the Council's decision notice indicates that the Council's decision has been based on drawing number 1325 02A. The appellant's statement also clarifies this to be the correct drawing. I therefore consider this to be the applicable drawing and confirm that I have considered this appeal having regard to this plan.
3. Policy QD2 of the Brighton and Hove Local Plan referred to by the Council in its reason for refusal has been superseded by Policy CP12 of the City Plan Part One (the City Plan) which has been adopted since the appeal was submitted. Both main parties were given the opportunity to comment on the relevance of the new Plan policy.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. This local parade of commercial units with residential maisonettes above is located within a residential area of mainly semi-detached two-storey
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- properties. The land levels incline from Valley Drive into Gables Avenue. The land to the northern end of the parade is enclosed by a low wall with closeboarded fence above which follows the curve of the pavement and highway gradient. This enclosed area is landscaped and, although occupying a corner plot, reflects other enclosed frontages of dwellings in the area.
6. The surrounding residential properties are set back behind front gardens. The existing space to the end of the parade, although enclosed, retains a set back from the junction in the same way as the surrounding dwellings. There is openness to the street scape around the highway junction which features a grass island. This openness contributes to the character and appearance of the area at this point. This spaciousness is notable when approaching the junction from the adjoining highways.
 7. The development would add further built development to the northern end of the parade, closer to the highway junction. Although a small landscaped area would be retained to the side, the development would encroach into the space around the junction. This would significantly erode the openness and would be detrimental to the appearance of the area for this reason. Given the prominence of the appeal site at this highway junction the visual effect of the proposed development would be substantial on the approaches to this junction.
 8. In addition to the above, there is a rhythm to the parade, which comprises 4 commercial units with shop fronts of similar widths with regularly positioned maisonette windows above. Whilst the extension of the parade would be of similar design and constructed of matching materials to those of the existing parade, with a similar outdoor area at the entrance to the maisonettes, the new unit would be significantly narrower than the existing ones. The existing visual rhythm of the parade would, therefore, not be replicated. To my mind, the development would appear as a cramped addition to the parade and would appear constrained within the site. This would be particularly noticeable when viewed from Valley Drive.
 9. For these reasons, I conclude that the development would be harmful to the character and appearance of the area. The proposed development would be contrary to Policy CP12 of the City Plan, which seeks all new development to establish a strong sense of place by respecting the diverse character and urban grain, amongst other matters. It would also be contrary to paragraphs 56, 60 and 64 of the National Planning Policy Framework (the Framework) that seek to promote or reinforce local distinctiveness and attach great importance to the design of the built environment.

Other Matters

10. I acknowledge the development would make a small contribution to address the Council's projected shortfall in commercial space in the City and, in this respect, the proposal is supported by Council's City Regeneration team. The development would also provide an additional home within the urban area and optimise the development potential at this previously developed site in a sustainable location. The appellant suggests that there is currently a housing shortfall in the City and that there is a need for windfall sites, such as this plot. However, in its appeal statement the Council indicates that following the adoption of the City Plan it is able to demonstrate a 5 year Housing Land Supply. The appellant has not challenged this position and I have no reason to come to any other conclusion.

11. The Framework and Policy SS1 of the City Plan require decisions to be made with regard to the presumption in favour of sustainable development. Accordingly I have considered whether the appeal proposal can be regarded as sustainable development. The new commercial space and dwelling proposed are clear benefits of the development and would support the social and economic dimensions of sustainable development, as set out in paragraph 7 of the Framework. Notwithstanding this, the proposed development would harm the character and appearance of the area, placing it in conflict with the environmental dimension. Viewed as a whole I find the scheme is not sustainable development. Furthermore, having considered all of the policies drawn to my attention, including those supportive of the scheme, the visual harm arising from the development leads me to conclude that there is conflict with the development plan as a whole.
12. Whilst the landscaped space to the end of the parade may currently be under-utilised and the residential unit could provide a good level of amenity for future occupants without creating overlooking or harm to the living conditions of neighbouring occupiers, these considerations do not outweigh the harm identified above or justify the proposal.
13. The appellant has offered support for the imposition of conditions, if permission were to be forthcoming, relating to, amongst other things, control the appearance of the development and cycle and refuse/recycling storage provision. However, such conditions would not overcome the harm that I have identified above.

Conclusions

14. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR

Appeal Decision

Site visit made on 6 December 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th December 2016

Appeal Ref: APP/Q1445/W/16/3152320
48 London Road, Brighton, BN1 4JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Starlow Management Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/03852, dated 10 November 2015, was refused by notice dated 13 April 2016.
 - The development proposed is described as '*creation of one bedroom flat*'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the locality, and;
 - The effect of the proposal on the living conditions of neighbouring occupiers at No 49 London Road, with specific regard to light and outlook.

Reasons

Character and appearance

3. The appeal building is a three storey property facing London Road. The ground floor is occupied as a shop. The first and second floors are used for residential purposes separate from the shop; with their own access adjacent to the shop front. The street scene is characterised by a mixture of retail and commercial uses on the ground floors, with residential uses above. To the rear of No 48, there is a single storey extension providing space for storage for the ground floor shop. I was able to see from the ground floor courtyard and metal stairs providing access onto the flat roof of the extension, both the rear elevation of the appeal building, and also those nearby.
 4. In this respect, there is a mixture of rear elevation styles and forms, which are most likely a result of the varying uses of the buildings, and the fact that they were not built in a homogenous form. In particular, there is a two storey rear extension at No 49 London Road (to the north of No 48), which extends a short distance beyond the rear of the appeal building. From the viewpoints available to me, there were no windows in the elevation or the rear of this projecting two storey element at No 49.
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5. The appeal scheme seeks to convert the roof space at No 48 into a one bedroom flat. This would involve alterations such as the insertion of rooflights in the front and rear roof slopes and also the erection of a rear extension to house an internal staircase to provide access from the first floor to the third floor (the existing roof space), as shown on the submitted drawings. Such changes would not be readily visible from the public realm, with views principally restricted to windows of buildings facing Providence Place to the rear of No 48.
6. However, the proposal would see the introduction of a mono-pitch roof above the eaves of the existing building and this would increase the prominence of the rear extension when viewed from nearby properties. Whilst there are other rear extensions within the local area, as shown on the document with photos showing views from the west over Providence Place, and also on drawings D.002 dated June 2016, in the main these 'closet wings' are typically subservient to the main roof, with the ridge of the roof being in line with the eaves. To the contrary, the appeal scheme would see the introduction of a mono-pitch roof which would be at odds with the prevailing pattern of development in the locality. Visually, this would be further exacerbated by the raising of the main roof ridge height which adds to the overall scale and bulk of the proposed changes to the roof and the rear extension.
7. When these proposed alterations are considered cumulatively, I find that they would result in material harm to the character and appearance of the locality. Accordingly, I conclude that the proposal would conflict with Policy QD14 of the *Brighton and Hove Local Plan - Retained Policies* March 2016, (BHLP) as supported by the *Design guide for extensions and alterations, Supplementary Planning Document* June 2013 (SPD) insofar as they apply to character and appearance matters, which, amongst other aims seek to ensure that schemes are well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area.

Living conditions

8. In terms of living conditions, the proposed extension would be about 1.9 metres in depth¹. Whilst it would increase the overall bulk of the building, and have a significantly greater height than the existing building, I have not been provided with any detailed assessment of which windows or areas might be affected by the proposal or indeed how they would be affected in terms of loss of light or outlook.
9. During my site inspection, I saw that there were no windows on the side or rear of the two storey projection at No 49. What is more, any light or outlook from the existing windows on the rear main wall of No 49 is likely to be screened by No 48, which is already a further storey taller in overall height. In the absence of any detailed study of the impact on the occupiers of No 49, there is no cogent evidence that demonstrates that the propose development would result in a materially harmful loss of light or outlook for the occupiers of No 49.
10. I therefore conclude that the proposed development would not result in a materially harmful loss of light or outlook for the occupiers of No 49. Accordingly, the proposal would accord with Policy QD14 and QD27, as

¹ Paragraph 3.2, Appellant's Grounds of Appeal, 7 June 2016

supported by the SPD, insofar as they apply to living conditions, which amongst other aims seek to ensure that proposals do not cause material nuisance and loss of amenity to existing or adjacent users, residents, or occupiers.

Conclusion

11. Although I have found in the appellant's favour on the second main issue, this does not overcome the unacceptable harm arising from the first main issue. For the reasons given above, and taking all matters raised into account, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR

Appeal Decision

Site visit made on 5 December 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9th December 2016

Appeal Ref: APP/Q1445/W/16/3154954

13 Middleton Rise, Brighton BN1 9AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Ryan Scott against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01551, dated 3 May 2016, was refused by notice dated 28 June 2016.
 - The development proposed is described as a 'first floor extension over existing single storey creating two additional bedrooms; change of use: currently a 5 bed HMO it is proposed to increase it to a 7 bed HMO. This is an amended application re-submission following a refusal'
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Decision

1. The appeal is allowed and planning permission is granted for a first floor extension over existing single storey creating two additional bedrooms; change of use: currently a 5 bed HMO it is proposed to increase it to a 7 bed HMO at 13 Middleton Rise, Brighton BN1 9AN, in accordance with application Ref: BH2016/01551, dated 3 May 2016, subject to the conditions set out in the Schedule of Conditions attached to this permission.

Procedural Matters

2. The application form described the proposal as a 'first floor extension over existing single storey creating two additional bedrooms; change of use: currently a 5 bed HMO it is proposed to increase it to a 7 bed HMO. This is an amended application re-submission following a refusal'. However, although in Part E of the appeal form it is stated that the description of the development has not changed, a different wording has been entered, which appears to have been taken from the Council's decision notice which described the proposal as a 'change of use from small house in multiple occupation (C4) to large house in multiple occupation (Sui Generis)'.
 3. Neither of the main parties has provided written confirmation that a revised description of development has been agreed and in any event the alternative description does not refer to the extension, so it is not completely accurate. Accordingly, I have used the description on the original application, omitting the phrase 'this is an amended application re-submission following a refusal' as that does not form part of the development before me.
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Main Issues

4. The main issues are:
 - a) the effect of the extension on the character and appearance of the host property and the surrounding area;
 - b) whether the enlarged property would provide satisfactory living conditions for future occupants in relation to the provision of communal space.

Reasons

Character and appearance

5. Middleton Rise includes a short cul-de-sac serving several pairs of semi-detached houses. No 13 already has a single-storey side extension with a flat roof. Its flank wall is at an angle to that of the original house and therefore the extension is wider at the rear of the building than at the front. However, this is not apparent from the street due to the modest height of the extension, the orientation of the house on its plot and the surrounding topography.
6. The proposed first floor extension would occupy a similar footprint to the existing extension so its width would not be disproportionate. Its ridge would be set down. The existing side extension is in line with the host property. However, the first floor extension would be set back in order to appear subservient to the existing building. Whilst the junction between the ground and first floors could appear awkward, it would not stand out in the street scene. This is because the house is at an angle due to the semi-circular arrangement of the houses around the end of the cul-de-sac. Consequently, the flank elevation would not become a prominent feature that would appear out of place in its context.
7. I acknowledge that the existing pair of semis is symmetrical at first floor and roof level. This symmetry would be lost with the proposed extension. However, the different treatment of the existing front elevations on this pair of properties, and others in this part of Middleton Rise, has already reduced the sense of uniformity in the street scene. I am therefore not persuaded that the loss of symmetry, particularly given the property's location at the end of the street, would be sufficiently harmful to justify rejecting the scheme. Furthermore, the proposal includes the replacement of the existing tile hanging on the upper part of the front elevation with timber cladding. This would complement the treatment on No 15 and would improve the continuity of the building as a whole.
8. Taking all these factors into consideration, I conclude that the proposed extension would not be harmful to the character and appearance of the host property or the surrounding area. It would therefore comply with saved Policy QD14 of the Brighton & Hove Local Plan (Local Plan), which requires extensions to be well-designed, sited and detailed in relation to the property to be extended, adjoining properties and the surrounding area. The Council also referred to its Supplementary Planning Document: *Design Guide for Extensions and Alterations* (SPD12) in its reasons for refusal. However, as my attention has not been drawn to any conflict between the appeal proposal and its advice, it has not influenced my decision.

Living conditions

9. The house is currently shared by five people. The existing kitchen/living room is a long narrow room at the back of the house. Whilst it appeared to offer an adequate area for preparing and eating meals, the space available for relaxing was more limited. The enlargement from the existing 17m² to 21m² would provide more space and a room which is a better shape. It is therefore likely to be more usable for future occupants.
10. I appreciate the Council's concern that with two more residents the communal area would continue to feel rather cramped. However, the size of the kitchen/living room would be significantly above the minimum standard of 14m² that is set out in the Council's document *Standards for Licensable Houses in Multiple Occupation* (HMO) in respect of an HMO that would accommodate seven people. In these circumstances, I have no conclusive evidence to demonstrate that the proposal would be inadequate. Neither do I have any substantiated reason to set aside these minimum requirements, in the absence of any other space standards approved by the local planning authority.
11. I therefore conclude that the proposal would provide satisfactory living conditions for future residents. In this respect the proposal would comply with saved Policy QD27 of the Local Plan, which seeks to protect the living conditions of existing and future occupiers of development.

Other Matters

12. Local residents have raised concerns about a number of other matters including the number of students living in the area, loss of privacy, loss of light, increased noise and disturbance, additional pressure on parking and potential structural damage during construction.
13. Policy CP21 of the Brighton and Hove City Plan Part One recognises the increasing demand for accommodation for students attending the city's two universities and other education establishments. This policy specifically addresses the issue of student accommodation and seeks to restrict the number of HMOs in any one particular area. In this case the Council undertook an assessment and concluded that the proposal would not give rise to an unacceptable concentration of HMOs in this area. I see no reason to come to a different view.
14. The officer's report also dealt with issues of privacy, light, noise, disturbance and parking and found that the proposal would not give rise to material harm that could justify withholding planning permission. Whilst I appreciate the concerns of local people, I have no substantive evidence to cause me to come to different conclusions in relation to any of these matters. Concern about structural damage during construction is not an issue that I can address in the context of a S78 appeal, which is confined to a consideration of the planning merits of the proposal.

Conditions

15. In addition to the standard time limit the Council has suggested a number of conditions in the event that the appeal was allowed. I have considered these in the light of the tests set out in paragraph 206 of the National Planning Policy Framework. I have imposed them where I have found them to be necessary and reasonable, whilst amending them for the sake of clarity and precision.

16. A condition specifying the plans is necessary in the interests of certainty. A condition requiring the materials to match the existing building is not required, as the plans show different materials with the express purpose of improving the appearance of the building. I have therefore imposed a condition requiring the extension to be constructed using the materials specified on the plans and within the application form.
17. Conditions limiting the number of people who can occupy the property and requiring the kitchen/living room to be retained in accordance with the approved plans are necessary to safeguard the living conditions of the occupants.
18. The Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Nevertheless, I am satisfied that that withdrawal of some permitted development rights is necessary to protect the living conditions of neighbours and the character and appearance of the area. However, I have replaced the single condition suggested by the Council with two that only withdraw those rights that are specifically relevant to this case.
19. A condition requiring the provision of secure cycle storage is needed to encourage sustainable travel and ensure that the proposal complies with Policy TR14 of the Local Plan. However, I have amended the wording for the sake of clarity and precision.

Conclusions

20. For the reasons set out above, I conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin within three years of the date of this decision.
- 2) The development hereby permitted shall be carried out strictly in accordance with the following approved plans:

Site location and block plan	025-(PL)-001	Rev 01
Existing plans	025-(PL)-002	
Existing elevations	025-(PL)-003	
Proposed plans	025-(PL)-004	Rev 01
Proposed elevations	025-(PL)-005	Rev 01
Sections	025-(PL)-006	Rev 01
Contextual elevations	025-(PL)-007	
- 3) The external finishes of the development hereby permitted shall be carried out in accordance with those set out on the application form and on the approved plans.
- 4) The development hereby approved shall not be occupied by more than seven persons.
- 5) The kitchen/ living room identified on the proposed floor plan (Drawing No 025-(PL)-004 Rev 01) shall be retained as communal space at all times.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be inserted in the first floor element of the flank elevation of the extension hereby permitted.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no dormer windows or rooflights shall be inserted in the roof of No 13 without the prior approval of the local planning authority.
- 8) The extension hereby permitted shall not be occupied until secure, covered cycle storage facilities for a minimum of two bicycles have been installed in accordance with details which have first been approved by the local planning authority. The cycle storage facilities shall be retained thereafter at all times for use by the occupants of and visitors to No 13.

End of Schedule of Conditions

Appeal Decision

Site visit made on 5 December 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9th December 2016

Appeal Ref: APP/Q1445/W/16/3155097 6 Beaconsfield Road, Brighton BN1 4QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Carly Houston against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00416, dated 5 February 2016, was refused by notice dated 1 April 2016.
 - The development proposed is conversion of existing six bedroom house to form 2no 1 bedroom flats and 1no 3 bedroom maisonette, including construction of external staircase to rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) whether the proposed conversion would provide satisfactory living accommodation for future residents;
 - b) the effect of the proposed rear staircase on the living conditions of neighbouring occupants in relation to privacy.

Reasons

Living conditions of future occupants

3. No 6 is a three-storey terraced property with a rear projection, which also has accommodation on three floors. It appears likely to me that the original layout was a house with four bedrooms. The insertion of a dormer window at the rear and rooflights at the front has enabled the provision of two extra bedrooms within the roofspace. The proposal seeks to sub-divide this large single dwelling into three units of self-contained accommodation.
 4. Saved Policy HO9 of the Brighton & Hove Local Plan sets out a series of criteria in relation to conversions of dwellings into smaller units of self-contained accommodation. Whilst the property clearly meets criterion (a) of the policy, criterion (b) requires that at least one unit is suitable for occupation by a family. However, the policy does not provide specific details about how the suitability of any unit will be assessed; each case therefore has to be determined on its individual merits.
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5. The proposed three bedroom maisonette would be on the second and third floors of the building. The kitchen would be within the rear projection and would be separated from the living area by a short flight of steps. A shower room would be provided between the proposed living room and bedroom on the second floor. The two bedrooms within the roofspace are of modest proportions. The bedroom at the front of the building has a reasonable floor area, but its headroom is restricted by the roof slope. It has limited outlook as it is reliant on rooflights. Although there is also a small shower room on the top floor, the maisonette would not have a family bathroom.
6. It seems to me that locating the larger unit towards the top of the building would make it impractical and inaccessible for a family with small children. It would require future residents to negotiate several flights of stairs, which would be difficult with children, shopping and possibly a pushchair. The arrangement of the accommodation would also present potential problems for a family. The kitchen would be separated from the living room by a corridor and a flight of steps and there is nowhere in the unit to store a pram or pushchair.
7. The largest bedroom is on the second floor, making it is more likely that any children would sleep on the top floor, which would make any night-time care more difficult and inconvenient. In addition, while the lack of a bathroom would be acceptable for adults who might choose to share, I consider that a bathroom is essential to care for a baby and/or small children. This combination of factors demonstrates that the accommodation would not be satisfactory to meet the needs of a family.
8. Although not cited in the Council's decision notice, my attention has also been drawn to saved Policy HO5 of the Local Plan, which requires all new residential development to provide private useable amenity space. The existing house has a modest sized rear garden. However, it is proposed that this would be available to the occupants of the units on the ground and first floors, rather than the family unit. This adds further to my concerns that the unit would not be suitable to meet the needs of a family.
9. I will now move on to consider the accommodation that would be provided in the units on the ground and first floors. I am aware that the Council does not have adopted minimum space standards for new units of accommodation. Any assessment of the size of the proposed flats is therefore a matter of judgment. Nevertheless, one of the core principles of the National Planning Policy Framework (the Framework) is to ensure a good standard of amenity for all existing and future occupants of land and buildings.
10. The existing rooms on the ground and first floors at the front of No 6 are a reasonable size for a living room. However, in order to provide a shower room on each floor it would be necessary to take space away from both rooms. Not only would this reduce their size but it would also make them a more awkward shape. This would make these rooms less useable and flexible in terms of their capacity to be suitable for a variety of day-to-day activities. Even the living room on the ground floor would have only limited space for furniture and storage. However, the good size of the kitchen/dining room would make the unit as a whole more acceptable.
11. I consider the lack of space would be particularly acute in the proposed first floor unit where the front room would serve as a living and dining room, as the kitchen would be too small to accommodate a table. This cramped layout

would be compounded by the physical separation of the kitchen from the living/dining room by a corridor and short flight of steps. In addition, the bedroom within the first floor unit would be significantly reduced from its existing size in order to provide the space necessary for the segregated staircase serving the unit on the upper floors. Although the plan shows that the bedroom could accommodate a double bed, the circulation and storage space would be very limited. These factors demonstrate that the first floor unit would provide inadequate living space for its occupants.

12. I note that the parties have provided different figures for the floor areas of the prospective ground and first floor flats. The floor space of the proposed ground floor unit would appear to be either just under or just over the national space standard of 50m². Whilst this amount of floor area cannot be required by the Council in the absence of a specific local policy, I consider this standard provides a useful guide and it is appropriate for me to have regard to it in making my assessment.
13. It seems to me that taking account of its size and proposed layout, the ground floor flat would provide a reasonable standard of accommodation for future occupants. However, both parties agree that the floor area of the first floor flat falls well below the 50m². In addition, I have identified significant practical inadequacies in terms of the proposed layout. I therefore consider that this unit would be unsatisfactory for future occupants.
14. The plans determined by the Council included a staircase from the first floor flat which would provide access into the rear garden. In view of the Council's concerns about the effects of this walkway and staircase on the adjoining occupants the appellant submitted a revised plan removing it and replacing the door with a window. The Council has not commented on this amendment. However, in my view the loss of access to any private amenity space for the occupants of the first floor flat adds to my concerns about the inadequacy of the unit as a whole. I have therefore not accepted the amended plan in my overall assessment of the proposal.
15. I conclude that the proposed conversion would provide unsatisfactory living conditions for future occupants of the second and third floor maisonette and the first floor flat. The proposal would therefore fail to comply with saved Policy HO9 of the Local Plan, which requires conversions to provide at least one unit of accommodation suitable for a family. It would also be contrary to saved Policy QD27 of the Local Plan which seeks to protect the living conditions of existing and future occupiers of development.

Living conditions of neighbouring occupiers

16. The proposed staircase from a door in the first floor flat would include an elevated walkway projecting out from the rear elevation of the property. This would provide open views of the adjoining gardens, especially No 4. I consider this would appear highly intrusive for the occupiers of No 4 resulting in an unacceptable loss of privacy, even if only used on an occasional basis.
17. I therefore conclude that the proposal would be harmful to the living conditions of the occupants of No 4, contrary to saved Policies QD14 and QD27 of the Local Plan, which seeks to protect the privacy of adjoining occupiers.

Planning balance

18. The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development.
19. In economic terms, the proposal would create some short-term construction-related employment. As this would be a small benefit in this case, it attracts little weight in my assessment. The units could generate additional Council tax receipts and New Homes Bonus (NHB). However, Council tax is simply a means for the Council to cover its costs and infrastructure needs arising from an increase in the local population. The NHB is an incentive for local planning authorities to provide additional housing in their areas, but I am not aware of any direct beneficial link between the NHB grant and spend in Brighton. These financial matters therefore carry little weight in terms of benefits arising from the appeal proposal.
20. In environmental terms, I acknowledge that the site is in an accessible location close to a wide range of services and facilities, which can be reached on foot, by bike or by using public transport. This is a matter which attracts moderate weight.
21. The proposal would result in a net addition of two units of accommodation. In social terms this would make a small contribution to the city's housing need. This is a factor to which I attach moderate weight. However, weighed against this is the harm that would arise from the creation of poor quality accommodation that would be cramped and unsuited to meeting the need for family housing. These are matters to which I attach significant weight.
22. In my view this significant harm would not be outweighed by the economic and environmental benefits of the scheme. This leads me to conclude that the proposal would not be a sustainable development.

Conclusion

23. I have concluded that the proposal would be contrary to the requirements of the Local Plan and there are no material considerations that outweigh the conflict with the development plan.
24. For this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR