

<b><u>No:</u></b>	<b>BH2012/01257</b>	<b><u>Ward:</u></b>	<b>WESTBOURNE</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>27-29 Pembroke Crescent, Hove</b>		
<b><u>Proposal:</u></b>	<b>Application for removal of condition 8 of application BH2011/02434 (Conversion of existing rest home (C2) into 2no six bedroom dwellings incorporating demolition of existing rear extension, removal of roof terrace and external fire escape with associate alterations and erection of new single storey rear extension) which states that the development hereby permitted shall not be occupied until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.</b>		
<b><u>Officer:</u></b>	<b>Adrian Smith</b>	<b><u>Valid Date:</u></b>	<b>26/04/2012</b>
<b><u>Con Area:</u></b>	<b>Pembroke and Princes</b>	<b><u>Expiry Date:</u></b>	<b>21 June 2012</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>		
<b><u>Agent:</u></b>	<b>Lewis &amp; Co Planning SE Ltd, Paxton Business Centre, Portland Road Hove</b>		
<b><u>Applicant:</u></b>	<b>Mr Jogi Vig, C/O Lewis &amp; Co Planning</b>		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in this report and resolves to **REFUSE** planning permission for the following reason:

1. Policy HO7 of the Brighton & Hove Local Plan states that planning permission will be granted for car-free housing in locations with good access to public transport and local services where there are complimentary on-street parking controls, and where it can be demonstrated that the proposed development would remain car-free in the long term. The site is located within a controlled parking zone (R) within a sustainable location close to the designated Hove Town Centre and public transport routes. The development as approved proposes no onsite parking provision. The applicants have failed to demonstrate that an exception to policy HO7 is reasonable given the location of the site and its position within a controlled parking zone. For this reason condition 8 is retained on the approved consent.

### Informative:

1. This decision is based on the site plan, planning statement and supporting documents received on the 26<sup>th</sup> April 2012.

## 2 THE SITE

The application relates to a pair of three storey semi-detached buildings situated on the north side of Pembroke Crescent, close to the junction with Pembroke

Avenue. The property forms a rest home and is situated in a primarily residential area within the Pembroke and Princes Conservation Area.

### 3 RELEVANT HISTORY

**BH2011/03764:** Application for removal of condition 8 of application BH2011/02434 (Conversion of existing rest home (C2) into 2no six bedroom dwellings incorporating demolition of existing rear extension, removal of roof terrace and external fire escape with associate alterations and erection of new single storey rear extension) which states that the development hereby permitted shall not be occupied until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. Application under appeal for non-determination.

At the Planning Committee of the 25<sup>th</sup> April 2012 members determined that had an appeal against non-determination not been lodged, the Local Planning Authority would have approved the removal of condition 8.

**BH2011/02434:** Conversion of existing rest home (C2) into 2no. six bedroom dwellings incorporating demolition of existing rear extension, removal of roof terrace and external fire escape with associate alterations and erection of new single storey rear extension. Approved 29/11/2011.

**BH2009/03001:** Conversion of existing rest home (C2) into 2 x 6 bedrooomed dwellings. Refused on Appeal 22/10/2010.

**BH2004/01685/FP:** Alterations to change use from rest home to form 9 self-contained flats. Approved 18/04/2005.

**3/89/201:** Extensions and alterations to Nursing Home. Approved 11/04/1990.

### 4 THE APPLICATION

Planning permission is sought for the removal of condition 8 of planning approval BH2011/02434 to allow future occupiers of the development to be eligible for parking permits. Condition 8 states:

*The development hereby permitted shall not be occupied until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.*

**Reason:** *To ensure that the development is car-free and to comply with policy HO7 of the Brighton & Hove Local Plan.*

### 5 CONSULTATIONS

**External**

**Neighbours:** None received.

**Councillor Cox:** Supports the application. A copy of the email is attached.

**Internal:**

**Sustainable Transport:** Objection

Recommend refusal as the proposal does not provide adequate justification for removing the necessary condition to ensure that the property remains car free for the long term. The applicant has not provided any further information which demonstrates why this condition should be removed.

Policy HO7 'Car free housing' is an aspirational policy that seeks to encourage and promote the use of sustainable modes of transport by reducing the reliance on the car within highly sustainable locations of the city. HO7 clearly states that planning permission will be granted for car free housing in the following locations:

- Locations with good access to public transport and local services;
- Locations where there are complementary on-street parking controls; and
- Where it can be demonstrated that the proposed development will remain genuinely car-free over the long term.

Therefore new residential units within these locations of the city should be made ineligible for parking permits through the HO7 policy, in order to encourage non-car based travel.

The site in question benefits from being in close proximity to bus services along New Church Road, Sackville Road and Portland Road. Both Aldrington and Hove railway stations are approximately a 12 minute walk or a walking distance of 600m. Therefore the site is deemed to have good access to public transport and be in an sustainable location and therefore appropriate to be car free.

It is important to note that the HO7 policy is not related to the control of on-street parking pressures in CPZs. The control of CPZ pressure is controlled through the issuing of CPZ permits outside of the planning process. Each CPZ has a maximum number of permits allowed and if it is at 100% capacity a waiting list will be in place. The HO7 policy is purely to encourage sustainable forms of travel to and from new housing within sustainable locations in the city.

The applicant's case to remove this condition is focussed upon the reduction in demand for car parking spaces due to the previous change of use from a care home to two residential properties. As previously highlighted this is not a car parking demand issue and the control of CPZ parking pressures is managed outside of the planning process. Therefore the arguments presented do not justify the removal of condition 8 of planning permission BH2011/02434.

## **6 MATERIAL CONSIDERATIONS**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The development plan is:

- The Regional Spatial Strategy, The South East Plan (6 May 2009);
- East Sussex and Brighton & Hove Minerals Local Plan (November 1999);
- East Sussex and Brighton & Hove Waste Local Plan (February 2006);
- Brighton and Hove Local Plan 2005 (saved policies post 2004).

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration which applies with immediate effect.

Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF. At the heart of the NPPF is a presumption in favour of sustainable development.

All material considerations and any policy conflicts are identified in the considerations and assessment section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

### Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD14	Extensions and Alterations
QD15	Landscape design
QD27	Protection of Amenity
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO7	Car free housing
HO11	Residential care and nursing homes
HO13	Accessible housing and lifetime homes
HE6	Development within or affecting the setting of conservation areas

### Supplementary Planning Guidance:

SPGBH4 Parking Standards

### Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD08 Sustainable Building Design

### The National Planning Policy Framework (NPPF)

## **8 CONSIDERATIONS**

The main consideration in the determination of this application relates to whether the development should remain car-free as per condition 8 attached to planning permission BH2011/02434, or whether sufficient evidence has been submitted to support the applicant's case that future occupiers of the development should be eligible for parking permits.

Condition 8 of planning permission BH2011/02434 sought to ensure that the development as approved would remain car-free in the long term. To this effect

condition 8 states:

*The development hereby permitted shall not be occupied until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.*

**Reason:** *To ensure that the development is car-free and to comply with policy HO7 of the Brighton & Hove Local Plan.*

Policy HO7 of the Brighton & Hove Local Plan relates specifically to car-free housing. This policy states that planning permission will be granted for car-free housing in locations with good access to public transport and local services where there are complimentary on-street parking controls, and where it can be demonstrated that the proposed development would remain car-free in the long term. The sub-text states that car-free developments will be secured by making residents of the development ineligible for parking permits.

The site is located within a controlled parking zone (R) and the development as approved proposed no onsite parking provision. Given that the site was considered to be in a sustainable location close to the designated Hove Town Centre and public transport routes, condition 8 was attached to the permission to make the development car-free in accordance with policy HO7.

The applicants wish to remove this condition to allow future residents to be eligible for parking permits. The case presented is based on the following information:

- Parking demand for the care home amounted to 6 vehicles according to SPG4 guidance. The approved two houses would require parking for 3 vehicles, a net reduction in demand at the site of 3 vehicles.
- There is currently no waiting list within zone R therefore the conversion of 27-29 Pembroke Crescent would not result in increased parking pressure in the area.
- The care home had two staff parking permits for zone R- these have now been rescinded.
- There is an ambulance bay directly outside the site which is no longer required. This could be converted to provide additional street parking for two vehicles.
- Recent appeal decisions (BH2009/01589 & BH2007/00700) in which the Inspector removed recommended conditions making the developments car free on the grounds that the CPZ effectively controls parking demand in the area. The applicants contend that the car-free condition is effectively 'unnecessary and or unreasonable' thereby failing to meet the tests of Circular 11/95.

Notwithstanding the above information, it is not considered in this instance that there is sufficient justification to make an exception to policy HO7 and remove the requirement for this development to be made car-free.

Saved policy HO7 is an aspirational policy that seeks to encourage a modal shift towards more sustainable transport modes. It is clear in its expectations that

new residential units in sustainable locations and within controlled parking zones should be made ineligible for parking permits to encourage non-car based travel. The policy does not react to parking demand and capacity within the City's controlled parking zones, as this can vary over time. The policy is purely predicated towards encouraging non-car based transport choices within sustainable locations within the City. As stated, 27-29 Pembroke Crescent is located within a controlled parking zone a short distance from mainline bus routes along New Church Road to the south, Sackville Road to the east, and Portland Road to the north. The Hove Town Centre and Portland Road Local Centre are a short distance to the north and east respectively, with Aldrington and Hove Stations a short walk beyond. In this respect the site is in close proximity to a range of sustainable transport choices and local retail and employment centres, and is considered to be in a sustainable location.

The applicant's arguments to justify the removal of the condition are based on demand and capacity circumstances, centring principally on the fact that the former care home had two staff parking permits, and that an ambulance bay fronting the site would be designated as additional parking bays for the area. The two staff permits have been rescinded. Following an initial consultation with Glentworth House care home, opposite the site, it appears likely that the ambulance bay is no longer required in the immediate area. However, the Traffic Regulation Order has not been amended to reflect this, and would require a further period of public consultation which may raise objections from the wider community. It is noted that the ambulance bay is 8m in length, sufficient to cater for one new parking bay only. It is also noted that statistically the net parking demand for the site would be reduced following the conversion of 27-29 Pembroke Crescent to two houses (SPGBH4 calculates that the care home would ordinarily require 6 parking bays, two houses would require 3). Notwithstanding these facts, the applicants have not been able to demonstrate that the site is not in a genuinely sustainable location. For this reason an exception to policy HO7 cannot be reasonably made. Although reference is made to appeal decisions incorporating car-free considerations, the two appeal decisions referred to are not relevant to this application, as each decision is made on its own merits based on the site location and the nature of the development proposed.

**Other matters:**

The applicant's contention that the car-free condition as applied fails to meet the tests of Circular 11/95 is not accepted by the Local Planning Authority. Policy HO7 specifically states the criteria under which such a condition will be applied and is set out within an adopted development plan document. It is considered such a policy to be fair, reasonable and necessary in order to reduce reliance on car use within sustainable locations within the City.

**9 CONCLUSION**

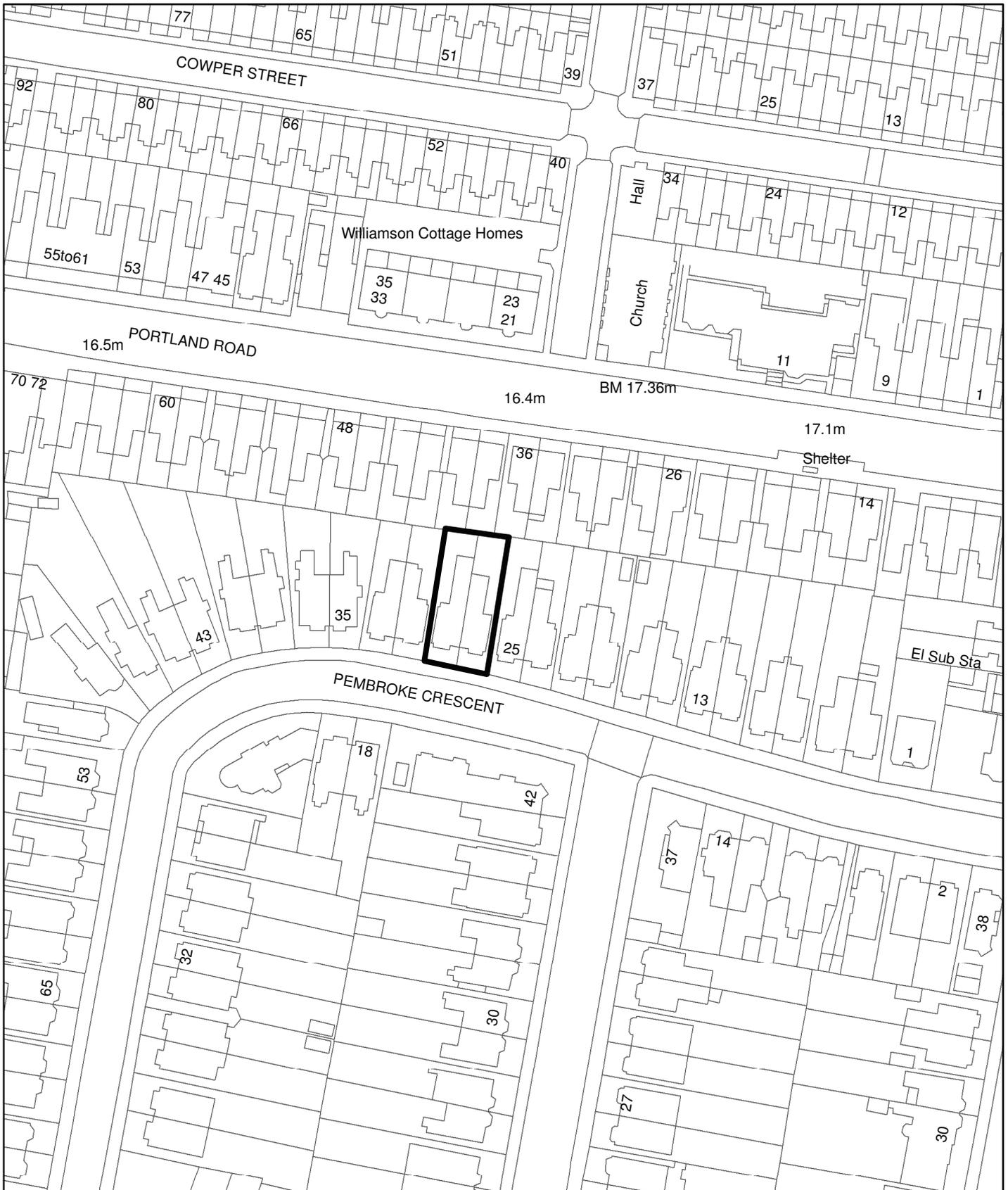
The site is located within a controlled parking zone (R) within a sustainable location close to the designated Hove Town Centre and public transport routes, whilst the development as approved proposes no onsite parking provision. The applicants have failed to demonstrate that an exception to policy HO7 is reasonable given the location of the site and its position within a controlled

parking zone. For this reason it is recommended that condition 8 is retained on the approved consent.

**10 EQUALITIES IMPLICATIONS**

None identified.

# BH2012/01257 27 - 29 Pembroke Crescent, Hove.



**Brighton & Hove  
City Council**



**Scale: 1:1,250**

**From:** Graham Cox  
**Sent:** 06 May 2012 08:20  
**To:** Adrian Smith  
**Subject:** Application reference BH2012/01257 27-29 Pembroke Crescent

Mr Smith

We have communicated about this matter on a number of occasions. At the last Planning Committee Councillors voted 10-1 to remove the car free condition. I know that under the rules this was not the end of matter as this was tied up with a planning appeal on the matter.

I gather the appeal is still running but in the meantime the application to remove the car free condition has been resubmitted. If this can be approved quickly then the appeal can be withdrawn – presumably saving precious funds and officer time.

I had assumed this would be a routine matter in view of the Councillors' decision. However I have been contacted by the applicants who advise me that the intention of planning officers is to refuse the application.

I must admit I was surprised to hear this, and have questioned whether that can be right. The vote was so clear at the Planning Committee that it surely is somewhat wasteful to have to go back to the committee to consider what is in effect an identical application to one councillors have already approved?

Obviously if it is the intention of the Planning Officers to refuse the application then I ask that the resubmitted application is put before Committee for determination.

Thank you

Graham

**Graham Cox**  
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