

**PLANS LIST
ITEM D**

The Priory London Road, Brighton

BH2013/00287

Extension to time limit full planning

03 APRIL 2013

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|--------------------------------------|---|----------------------------|----------------|
| <u>No:</u> | BH2013/00287 | <u>Ward:</u> | PATCHAM |
| <u>App Type:</u> | Extension to Time Limit Full Planning | | |
| <u>Address:</u> | The Priory, London Road, Brighton | | |
| <u>Proposal:</u> | Application to extend time limit for implementation of previous approval BH2009/00058 for roof extension to blocks C and D to provide 4x3 bedroom flats, each with own roof garden, and a cycle store. | | |
| <u>Officer:</u> | Liz Arnold, Tel 291709 | <u>Valid Date:</u> | 01/02/2013 |
| <u>Con Area:</u> | N/A | <u>Expiry Date:</u> | 29/03/2013 |
| <u>Listed Building Grade:</u> | N/A | | |
| <u>Agent:</u> | Strutt & Parker, 31 North Street, Chichester | | |
| <u>Applicant:</u> | Anstone Properties Ltd, C/o Strutt and Parker | | |

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located on the western side of London Road just to the north of its junction with The Deneway. It comprises 4 circa 1970's four storey flat roofed blocks of flats of brick construction with projecting bays clad in white fascia boarding. Blocks A & B are located to the rear of the site and Blocks C & D are situated at the front, presenting a continuous façade to London Road. There are 43 garages and 32 parking spaces located within the site with vehicular access from London Road. There is a 20m – 25m deep area of soft landscaping on the London Road frontage which is laid to lawn and contains a number of substantial mature trees which span the length of the eastern site boundary.
- 2.2 The surrounding area is predominantly residential in character. To the north of the site, Homeleigh is a four storey purpose built block of flats. To the south, are the rear gardens of detached two storey houses and bungalows fronting The Deneway. Adjoining the site to the rear is a two storey house and beyond the London to Brighton rail line whilst to the east on the opposite side of London Road is a three storey block of flats and two storey detached houses.
- 2.3 London Road (A23) is a heavily trafficked classified road with parking restrictions in the vicinity of the application site.

3 RELEVANT HISTORY

BH2011/01611:(Block B) Erection of additional storey to form 2no three bedroom flats each with roof garden and associated cycle store. Approved 07/12/2011.

BH2010/01898: Construction of 4 No. additional garages. Refused 22/10/2010.

BH2009/00058: (Blocks C and D) Construction of additional storey to existing block of flats, to form 2 two-bedroom and 2 three bedroom flats with a roof garden to each unit. New cycle store. Non-determination appeal allowed 09/04/2010.

BH2009/00033: (Blocks C and D) Proposed roof extension to Blocks C and D to provide 4 x 3 bedroom flats, 6 x car parking spaces and a cycle store. Withdrawn 12/02/2009.

BH2005/06744: Construction of additional storey to each of the existing blocks of flats, to form 6 four-bedroom and 2 five-bedroom flats, with a roof garden to each unit. Provision of 22 car parking spaces (8 for additional flats, 6 for existing residents, 8 visitor spaces which includes 2 disabled parking spaces). New cycle store. Refused 18/01/2008. Appeal Withdrawn.

BH2001/02278/OA: Erection of a 2-storey building above existing garage compound to form 4 flats and the provision of 2 car parking spaces. Refused 09/11/2001. Appeal Dismissed 04/10/2002.

93/0503/OA: Construction of additional (fourth) floor to each of the 4 flat blocks to form a total of 10 new flats. Provision of 15 new parking spaces. Refused 31/08/1993.

93/0502/OA: Erection of 2 storey building above garage compound to form 4 new flats. Provision of 6 new parking spaces. Refused 31/08/1993.

4 THE APPLICATION

4.1 Planning permission is sought for a new planning permission to replace the extant planning permission in order to extend the time limit for implementation.

4.2 Although refused by Planning Committee on the 14th October 2009, following an appeal (APP/Q1445/A/09.2111981) for non-determination, application BH2009/00058 was granted permission on the 9th April 2010 (with a condition for a three year commencement date); therefore the extant permission is due to expire on the 9th April 2013.

5 PUBLICITY & CONSULTATIONS

External

5.1 **Neighbours: Seventeen (17)** letters of representation have been received from **Flats 3, 5, 9, 14, 20, 23, 27, 59, 65 and 79 The Priory, Priory (Patcham) Limited (x2) and Flats 5 (x2), 26, 27 and 45 Homeleigh, London Road** objecting to the application for the following reasons:

- enough noise comes from the main road and train tracks behind without the want for a building site metres away,
- the development would restrict light/ result in loss of light,
- owners and occupiers of The Priory objected strongly to application BH2009/00058, which was made by the previous owner, as an over-development,

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- the additional storey would alter the original design concept of the blocks,
- the development would cause major disruption during construction and chaos with large vehicles and machinery within the grounds. The movement of large vehicles would be a danger to users of the pathway through The Priory,
- there is insufficient off road parking within the confines of The Priory at present, the proposal would worsen the existing parking situation with no provision made for extra parking for the new flats. The lay-by on London Road opposite the site is often full, all day and all night with cars that should not be there,
- the extension is inappropriate as all the blocks and surrounding properties have a uniform height and it would thus be detrimental to the street scene and original character and design of The Priory,
- loss of privacy and increase of noise to flats below,
- there is only one narrow vehicular entrance into and out of The Priory from and to London Road with limited visibility until a vehicle is actually on the walkway. It is particularly difficult to attempt to turn right from The Priory towards central Brighton and it is not much easier to turn left. The access has no pathway for pedestrians,
- there would be considerable inconvenience to the occupants of the flats below with a loss of the lift while a new lift is put in place,
- refuse bin storage is already at maximum capacity and there seems to be no allowance made for this in the addition of these flats,
- there would be a disturbance to the flight path of The Priory bat colony, a protected species. It has already been agreed that building work can only take place during specified months of the year; surely this makes the extension untenable. Proposed measures to relocate the bats in the roof space appear to be inadequate,
- the development would result in overshadowing of adjoining blocks,
- the proposal would be out of keeping with the existing building and other properties in the area,
- the creation of roof gardens would lead to evening socialising on the roofs after completion, causing both noise nuisance and loss of privacy due to overlooking,
- the development will make flats harder to sell and will reduce value,
- an additional storey will be higher than the other blocks of flats already built close by,
- residents refuse to allow construction which spoils the character of the property or deprives them of the outside amenities they have been guaranteed,
- during construction many parking spaces would be put out of use on the west side of blocks C and D or the lawn on the east side would be destroyed with little chance of it ever being reinstated, and
- the 4 person lifts are slow and too small for added traffic and increasing their size is impossible.

5.2 **Natural England:** It is for the Local Authority to determine whether or not the application is consistent with national or local policies on biodiversity and landscape and other bodies and individuals may be able to help the Local

Planning Authority to fully take account of the environmental value of this site in the decision making process. Local Planning Authorities should seek the views of their own ecologists when determining the environmental impacts of this development. Would expect Local Planning Authorities to consider the possible impacts resulting from the proposal on the following; protected species, local wildlife sites, biodiversity enhancements and local landscape.

5.3 **Network Rail:** Have no observations to make.

Internal:

5.4 **Ecology:** Comments that an appropriately worded condition should be attached to any approval to ensure the development takes account of any significant change to the site with respect to bats.

5.5 **Environmental Health:** Comments that an acoustic report should have been provided with the original application. Additionally a condition, for a scheme to ensure that noise and vibration from the lifts would not affect future users of the bedrooms adjacent to the lifts, should have been considered/included. However, due to the nature of this application neither can be requested so there are no further comments to make.

5.6 **Sustainable Transport:** Recommends approval as the Highway Authority has no objections to the application. The Highway Authority's comments from the previous application still stand.

5.7 The applicant is not providing any additional car parking spaces as detailed under drawing number A10008/01. Originally the applicant proposed 4 car parking spaces and 2 disabled spaces. Prior to determination of the application this was amended so no additional spaces were provided. The Highway Authority has no objections over this level of car parking provision.

5.8 The Highway Authority previously requested a S106 contribution for sustainable transport measures. However, at appeal there was no such planning obligation before the Inspector. Their view was that the lack of the suggested planning obligation would warrant a refusal if permission. The Temporary Recession Measures are also now in place and this development falls below that threshold. In light of these matters the Highway Authority would not look to secure a S106 contribution in this instance.

5.9 Would look for details of cycle storage to be secured by condition, as was previously done.

6 MATERIAL CONSIDERATIONS

6.1 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."

- 6.2 The development plan is:
- The Regional Spatial Strategy, namely The South East Plan (6 May 2009);
 - Brighton & Hove Local Plan 2005 (saved policies post 2007);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
 - East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
 - 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 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration which applies with immediate effect.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove Local Plan:

| | |
|------|---|
| TR1 | Development and the demand for travel |
| TR7 | Safe development |
| TR14 | Cycle access and parking |
| TR19 | Parking standards |
| SU2 | Efficiency in the use of energy, water and materials |
| SU10 | Noise nuisance |
| SU13 | Minimisation and re-use of construction industry waste |
| SU15 | Infrastructure |
| QD1 | Quality of development and design statements |
| QD2 | Design-key principles for neighbourhoods |
| QD3 | Design-efficient and effective use of sites |
| QD14 | Extensions and alterations |
| QD18 | Species protection |
| QD27 | Protection of amenity |
| QD28 | Planning obligations |
| HO5 | Provision of private amenity space in residential development |
| HO13 | Accessible housing and lifetime homes |

Supplementary Planning Documents

| | |
|-------|-------------------------------------|
| SPD03 | Construction and Demolition Waste |
| SPD08 | Sustainable Building Design |
| SPD11 | Nature Conservation and Development |

Supplementary Planning Guidance:

| | |
|--------|-------------------|
| SPGBH4 | Parking Standards |
|--------|-------------------|

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The application seeks an extension to the time limit for implementation of development, which was refused by planning committed but subsequently granted planning permission on the 9th April 2009 at appeal against non-determination.
- 8.2 The proposed development has already been judged to be acceptable in principle at an earlier date by the Planning Inspectorate.
- 8.3 The plans under consideration remain identical to the current permission. The determining issues to consider therefore relate to whether there have been any material changes to the site or local and national policy that would now render the proposed development unacceptable.
- 8.4 The option to extend time limits for implementing planning permission was introduced as a measure to make it easier for developers and Local Planning Authorities to keep planning permissions alive for longer during the economic downturn so that they can more quickly be implemented when economic conditions improve. In accordance with the National Planning Policy Framework (NPPF) government guidance on extending time limits for implementation states that in current circumstances, Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly.
- 8.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that determination must be made in accordance with the relevant development plan, unless material considerations would indicate otherwise.
- 8.6 Whilst local planning policy has not changed since the granting of application BH2009/00058, which was allowed on appeal, the National Planning Policy Framework (NPPF) was published on 27th March 2012 and is now a material consideration in the determination of applications. It is considered that the current Local Plan policies relating to this development are consistent with the NPPF and as such the policy background, other than that set out below, is identical to that in place at the time of planning application BH2009/00058. In addition the emerging City Plan policies do not indicate a different stance should be taken in respect to this development.
- 8.7 It is noted that a number of owners/Freeholders have objected to the extension of time application however the issue regarding owner's/Freeholder's

permission to carry out the proposed development, once planning permission is granted, is not a material planning consideration, rather it is a civil matter.

- 8.8 A recent site visit has revealed that there have been no material changes to the site, other than those discussed below. However under application BH2011/03358 planning permission was granted for the demolition of 6 existing dwellinghouses and the construction of a new 3 storey residential care home on the corner of Carden Avenue and London Road, which is located to the south-east of the site. This approved neighbouring development is currently under construction; however it is not considered that this neighbouring development has impacts upon the proposed development or the proposed development upon the neighbouring development. Furthermore an earlier permission, BH2008/03015 for a similar development on the neighbouring site was approved on the 21st January 2009, which would have been taken into account in the determination of the earlier permission.
- 8.9 In respect of ecology, at the time the previous permission was granted, Block D supported an important bat roost and conditions were placed on the previous approval to ensure the existing roost was conserved and that the habitat around it was enhanced for bats as part of the development.
- 8.10 There is a possibility that in the intervening period, since approval of the former application, the bat roost has changed. The most significant change would be that the bat colony has moved to another location within the development site. The Council's Ecologist states that the risk is relatively small, but the impact of it on bats is sufficiently important to justify requiring an updated report to the original but survey as a condition of the new approval.
- 8.11 The updated survey should assess whether there have been any significant change to the status of the development site with respect to bats since approval of BH2009/00058. If a significant change has occurred, the report should describe measures required to ensure the development effectively mitigates for bats.
- 8.12 No objections have been received from the Sustainable Transport or Environmental Health teams.

9 CONCLUSION

- 9.1 The principle of the development was accepted by approval of application BH2009/00058 on appeal. The site has not significantly changed since the earlier consent was granted. The development remains acceptable in principle subject to the compliance with recommended conditions and as previously imposed.

10 EQUALITIES

- 10.1 The proposed dwellings should comply with Part M of the Building Regulations and has been conditioned to meet all reasonable Lifetime Homes standards.

11 CONDITIONS / INFORMATIVES

11.1 Regulatory Conditions:

- 1) 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.
- 2) 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 |
|---|------------------|----------------|----------------------|
| Site and Location Plans | A1008/01 | Revision B | 23/07/2009 |
| Proposed 4 th Floor Plan & East Elevation Blocks C & D | A1008/02 | Revision D | 23/07/2009 |
| Proposed Elevations Blocks C & D | A1008/03 | Revision C | 23/07/2009 |
| Existing Floor Plans | A1008/05 | - | 13/01/2009 |
| Existing Elevations Blocks C & D | A1008/08 | - | 13/01/2009 |

- 3) Access to the part of the flat roof to the original building to the north-east of the roof extension, as marked on drawing no. A1008/02D, shall be for maintenance purposes only and the area shall not be used as a roof garden, terrace, patio or similar amenity space.
Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 4) Unless otherwise agreed in writing by the Local Planning Authority, the new dwellings hereby permitted shall be constructed to Lifetime Homes standards prior to their first occupation and shall be retained as such thereafter.
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.
- 5) Unless otherwise agreed in writing by the Local Planning Authority, construction work on block D shall not be carried out outside the period 1st September to 1st November in any year.
Reason: To ensure the protection of the Bat roost and to comply with policy QD18 of the Brighton & Hove Local Plan.
- 6) The flight corridor of the bats into the roost located on block D and to nearby trees as shown in figure 4 of the bat assessment report dated January 2009 by the Ash partnership, shall be kept clear of all obstructions, including construction equipment, from sunset to sunrise for the duration of the construction period.
Reason: To ensure the protection of the any Bat roosts and to comply with policy QD18 of the Brighton & Hove Local Plan.

11.2 Pre-Commencement Conditions:

- 7) No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development 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 policies QD1 and QD14 of the Brighton & Hove Local Plan.

- 8) No development shall take place until a scheme for the storage of refuse and recycling has 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.

- 9) No development shall commence until an up-to-date bat assessment survey of the site has been submitted to and approved in writing by the Local Planning Authority. Any measures required to ensure that the development effectively mitigates for bats shall be implemented in full.

Reason: To ensure the protection of the any Bat roosts and to comply with policy QD18 of the Brighton & Hove Local Plan.

- 10) No development shall commence until details of bat boxes to be installed in the development and on the trees on the site have been submitted to and approved in writing by the Local Planning Authority. The bat boxes shall be installed prior to the first occupation of the development and shall be retained as such.

Reason: To ensure the protection of the any Bat roosts and to comply with policy QD18 of the Brighton & Hove Local Plan.

- 11) Unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until:

(a) evidence that the development is registered with the Building Research Establishment (BRE) under Ecohomes (or an equivalent or successor assessment tool) and a Design Stage Assessment Report showing that the development will achieve an Ecohomes Refurbishment rating for all residential units have been submitted to the Local Planning Authority; and

(b) a BRE issued Design Stage Certificate demonstrating that the development has achieved an Ecohomes Refurbishment rating for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

- 12) The development hereby permitted shall not be commenced until details of secure cycle parking facilities 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 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.

11.3 Pre-Occupation Conditions:

- 13) Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until an Ecohomes Design Stage Certificate (or certificate from equivalent or successor assessment tool) and a Building Research Establishment issued Post Construction Review Certificate confirming that each residential unit built has achieved an Ecohomes Refurbishment rating has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

11.4 Informatives:

1. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-

The principle of the development was accepted by approval of application BH2009/00058. The site has not significantly changed since the earlier consent was granted. The development remains acceptable in principle subject to the compliance with recommended conditions.
2. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) 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.
3. The applicant is advised that in respect of condition 9 the updated bat survey should be carried out by a qualified and experience bat surveyor to assess whether there has been any significant change to the status of the development side with respect to bats since approval of application BH2009/00058. If a significant change has occurred, the report should describe any measures required to ensure that the development effectively mitigates for bats.
4. The applicant is advised that details of Lifetime Homes standards can be found in Planning Advice Note PAN 03 Accessible Housing & Lifetime Homes, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk).

5. The applicant is advised that details of the Ecohomes Refurbishment assessment and a list of approved assessors can be obtained from the Ecohomes websites (www.breeam.org and www.breeam.org/ecohomes). Details about Ecohomes can also be found in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website (www.brighton-hove.gov.uk). A new assessment tool called BREEAM Domestic Refurbishment will be published by the Building Research Establishment from late 2010. The use of BREEAM Domestic Refurbishment would satisfy the requirements of the Ecohomes refurbishment conditions. Further information about this assessment tool can be found on the BRE website (www.breeam.org/page.jsp?id=228).

