





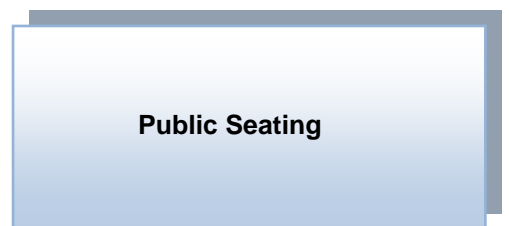
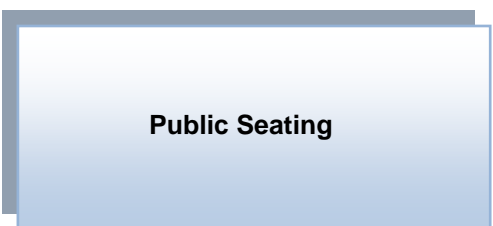
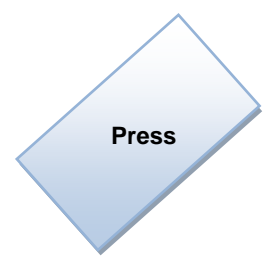
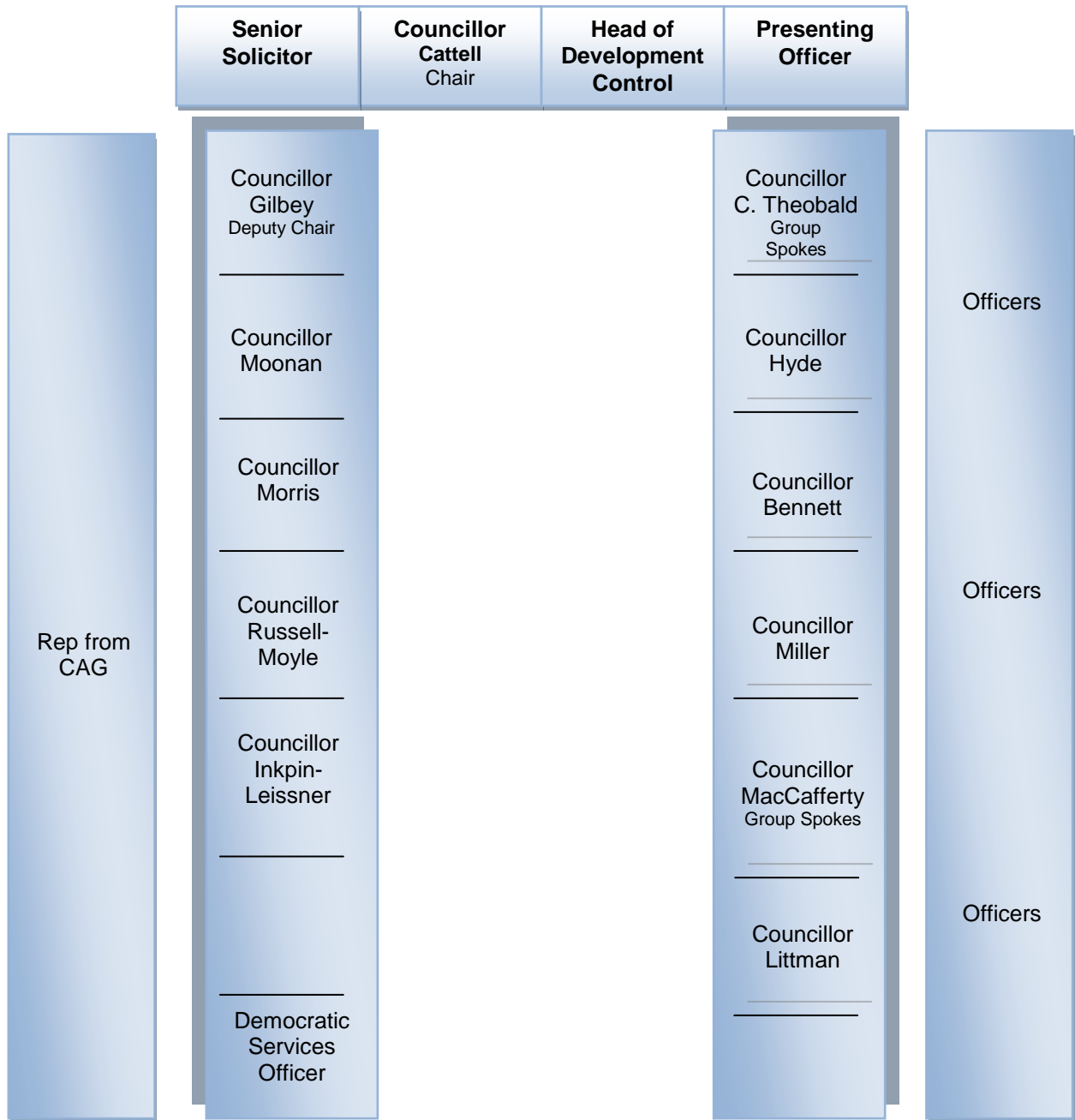
Brighton & Hove  
City Council

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>12 October 2016</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 4AH</b>
Members:	<b>Councillors:</b> Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morris and Russell-Moyle  <b>Co-opted Members:</b> Jim Gowans (Conservation Advisory Group)
Contact:	<b>Cliona May</b> Democratic Services Officer 01273 29-1065/29-1354 planning.committee@brighton-hove.gov.uk

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# Democratic Services: Planning Committee



## AGENDA

### 51 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'.

**52 MINUTES OF THE PREVIOUS MEETING**

**1 - 22**

Minutes of the meeting held on 14 September 2016 (copy attached).

**53 CHAIR'S COMMUNICATIONS**

**54 PUBLIC QUESTIONS**

**Written Questions:** to receive any questions submitted by the due date of 12 noon on 3 October 2016.

**55 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

**56 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 BH2015/04536 - Preston Park Hotel, 216 Preston Road, Brighton - Full Planning 23 - 48**

Change of use of hotel (C1) to residential (C3) comprising conversion of main hotel building into 16no self-contained open market flats, demolition and redevelopment of north wing to provide 9no affordable flats, alterations to front façade, retention of 27 car parking spaces and provision of new cycle and refuse facilities.

**RECOMMENDATION – MINDED TO GRANT**

*Ward Affected - Withdean*

**B BH2016/01766 - 76-79 and 80 Buckingham Road, Brighton - Full Planning 49 - 82**

Conversion of nos 76-79 Buckingham Road to provide four residential dwellings (C3). Demolition of no 80 Buckingham Road and the erection of a five storey building to provide 20 residential units (C3) and a community use unit (D1).

Associated car and cycle parking.

**RECOMMENDATION – MINDED TO GRANT**

*Ward Affected – St Peter's & North Laine*

**C BH2016/01719 - Daltons Bastion (site of former Wheel), Madeira Drive, Brighton - Full Planning 83 - 116**

Erection of 22.5m high tower (D2) with zip wire to a landing area along Madeira Drive opposite the entrance to Atlingworth

## PLANNING COMMITTEE

Street with ancillary storage and changing facilities and erection of a café (A3). Retention of existing base plinth.

**RECOMMENDATION – MINBDED TO GRANT**

*Ward Affected – Queens Park*

### MINOR APPLICATIONS

- D BH2016/00752 - 101 Roundhill Crescent, Brighton - Full Planning 117 - 140**
- Erection of 1no three bedroom dwelling (C3) incorporating alterations to boundary wall and external alterations to existing building including repair works, alterations to fenestration and associated works.
- RECOMMENDATION – GRANT**  
*Ward Affected – St Peter’s & North Laine*
- E BH2016/00753 - 101 Roundhill Crescent, Brighton - Listed Building Consent 141 - 150**
- External alterations including repair works, alterations to boundary wall including installation of a new gate, reinstatement of cast iron window guards to second floor windows, alterations to fenestration and associated works.
- RECOMMENDATION- GRANT**  
*Ward Affected – St Peter’s & North Laine*
- F BH2016/02229 - 34 Walmer Crescent, Brighton - Full Planning 151 - 162**
- Change of use from single dwelling (Class C3) to small house in multiple occupation (Class C4).
- RECOMMENDATION – GRANT**  
*Ward Affected - Moulsecoomb & Bevendean*
- G BH2016/02278- 2 Highview Way, Brighton- Full Planning 163 - 174**
- Erection of single storey extensions to south and north elevations. Landscaping works including raised decking and new driveway, alterations to front boundary and other associated works.
- RECOMMENDATION – REFUSE**  
*Ward Affected - Patcham*
- H BH2016/01740 - 4 Plymouth Avenue, Brighton - Full Planning 175 - 186**
- Change of use from four bedroom single dwelling (C3) to four bedroom house in multiple occupation (C4).
- RECOMMENDATION – GRANT**  
*Ward Affected – Moulsecoomb & Bevendean*

## PLANNING COMMITTEE

- I BH2016/00862 - 28 and land rear of including 28B, 28C and 28D Crescent Road, Brighton -Full Planning 187 - 210**

Part demolition and conversion of existing commercial buildings and erection of two new buildings to provide 3no two bedroom houses and 1no three bedroom house (C3) with associated landscaping.

**RECOMMENDATION – GRANT**

*Ward Affected – St Peter’s & North Laine*

- J BH2016/02201-4 Harrington Road, Brighton - Full Planning 211 - 220**

Creation of vehicle crossover, dropped kerb and hardstanding with associated alterations to front boundary wall.

**RECOMMENDATION – REFUSE**

*Ward Affected - Withdean*

- K BH2016/00945 -38 Upper St James Street, Brighton - Full Planning 221 - 232**

Change of use from retail (A1) to café/restaurant (A3) (Retrospective).

**RECOMMENDATION – GRANT**

*Ward Affected - Queen’s Park*

**57 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

- 58 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 233 - 234**

(copy attached).

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

(Delegated Decisions to be circulated separately)

(Tree Matters List - there are none for consideration at this meeting)

- 60 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 235 - 238**

(copy attached).

- 61 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 239 - 240**

(copy attached).

**62 APPEAL DECISIONS**

**241 - 292**

(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>

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

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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](mailto:planning.committee@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk).

# PLANNING COMMITTEE



**BRIGHTON & HOVE CITY COUNCIL****PLANNING COMMITTEE****2.00pm 14 SEPTEMBER 2016****COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 4AH****MINUTES**

**Present:** Councillors Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Allen, Hyde, Janio, Littman, Miller, Moonan, Morris and Russell-Moyle

**Co-opted Members:** Jim Gowans (Conservation Advisory Group)

**Officers in attendance:** Paul Vidler (Planning Manager, Major Applications); Nicola Hurley (Planning Manager, Applications); Adrian Smith (Principal Planning Officer); Steve Tremlett (Principal Planning Officer); Steven Shaw (Development and Transport Assessment Manager); Hilary Woodward (Senior Solicitor); Linda Shaw, Local Employment Scheme Co-ordinator and Penny Jennings (Democratic Services Officer)

**PART ONE****37 PROCEDURAL BUSINESS****37a Declarations of substitutes**

37.1 Councillor Allen declared that he was in attendance in substitution for Councillor Inkpin-Leissner and Councillor Janio declared that he was in attendance in substitution for Councillor Bennett.

**37b Declarations of interests**

37.2 Councillor Morris stated in relation to Applications BH2016/01756, and BH2016/01757, 18 -19 Ship Street, Brighton that as the applicant was known to him he would leave the meeting during their consideration and would take no part in the debate or decision making process.

37.3 Councillor Cattell, the Chair referred to Applications BH2016/00752 and BH2016/00753, 101 Roundhill Crescent stating that although she knew several

architects at the practice acting as agents for the applicant, she remained of a neutral mind and would remain present during the discussion and decision making in respect of these applications

**37c Exclusion of the press and public**

37.4 In accordance with Section 100A of the Local Government Act 1972 (“the Act”), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

37.5 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

**37d Use of mobile phones and tablets**

37.6 The Chair requested Members ensure that their mobile phones were switched off, and where Members were using tablets to access agenda papers electronically ensure that these were switched to ‘aeroplane mode’.

**38 MINUTES OF THE PREVIOUS MEETING**

37.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 3 August 2016 as a correct record.

**39 CHAIR'S COMMUNICATIONS**

39.1 There were none. However, the Chair welcomed everyone to the first meeting of the Committee in the newly refurbished Chamber at Hove Town Hall.

**40 PUBLIC QUESTIONS**

40.1 There were none.

**41 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

41.1 **RESOLVED** – That the following site visits be undertaken by the Committee prior to determination of the application:

<b>Application(s):</b>	<b>Requested by:</b>
K, L, BH2016/00752 and BH2016/00753, 101 Roundhill Crescent, Brighton	Councillor Hyde

**42 WITHDRAWING THE REASON FOR REFUSAL OF PLANNING APPLICATION BH2015/01471, ASTORIA 10-14 GLOUCESTER PLACE, BRIGHTON FOR PURPOSES OF APPEAL**

- 42.1 The Committee considered a report of the Executive Director, Economy, Environment and Culture seeking the Committee's agreement to withdraw the reason for refusal of the planning application BH2015/01471, Astoria, 10-14 Gloucester Place, Brighton for the purposes of appeal.
- 42.2 Agreement to withdraw the reason for refusal was being sought prior to the forthcoming public inquiry appeal which was due to commence on 13 December 2016 provided the Planning Inspectorate accepted the amended plans referred to in paragraph 3.2 of the report and to authorisation being given for the Planning Manager, Applications, in consultation with the Chair of the Committee, to determine the amount of the affordable housing contribution which should be payable in the event that the appeal was successful together with any other s106 terms.
- 42.3 Councillor Littman sought clarification in respect of the process stating that he had not encountered this situation in relation to the Committees' decision making previously, querying whether it was appropriate to revisit an application in this way in the absence of a new revised application being made. Councillor C Theobald concurred agreeing that she had not encountered this situation previously.
- 42.4 The Legal Adviser to the Committee, Hilary Woodward, explained that although this situation was unusual it represented a fall back position in the event that the Planning Inspector decided to accept the appellant's amended plans and a full Daylight/Sunlight Assessment; he was not obliged to do so and this matter was at his discretion. If he decided to accept this information it would materially alter the balance of considerations for this application. The Planning Inspectorate had yet to confirm whether or not they would consider this new information provided by the applicants.
- 42.5 Councillor Moonan considered it was regrettable that this situation had arisen and that the applicant had not provided this information with the original application.
- 42.6 The Chair, Councillor Cattell, sought confirmation in the response to queries by some Members whether it would be possible to defer consideration until the next scheduled meeting of the Committee pending a decision by the Planning Inspectorate on whether or not they would accept this information. It was explained that was not an option in the timeframe available.
- 42.7 Councillor Miller stated that as he understood it the recommendations set out in the report would only be actioned in the event that the Planning Inspectorate accepted the appellant's submission. It was confirmed that was the case. He also noted that the affordable housing contribution remained under negotiation and that if there was failure to reach a policy compliant sum the reason for refusal set out in paragraph 8.12 of the report would be used.
- 42.7 A vote was taken and on a vote of 7 with 5 abstentions the recommendations set out below were agreed.
- 42.8 **RESOLVED** – (1) That provided the Planning Inspectorate accept the amended plans referred to in paragraph 3.2 of the report as part of the appeal scheme the Planning

Committee agrees to withdraw the reason for refusal as set out in paragraph 3.5 of the report;

(2) That the Planning Committee authorises the Planning Manager, Applications, in consultation with the Chair of Planning Committee, to determine the affordable housing contribution which would be required by the local planning authority should the appeal be upheld together with any other s106 terms and the Committee further agrees that the s106 shall be completed on those terms as so determined; and

(3) In the event that the Planning Manager – Applications is unable to agree a policy compliant affordable housing contribution with the appellant the Committee agrees that the Council's case in response to the appeal should be that the application should be refused for the reason set out in paragraph 3.12 of the report.

**43 REQUEST TO VARY THE HEADS OF TERMS OF SECTION 106 AGREEMENTS IN CONNECTION WITH PLANNING APPLICATIONS BH2015/04577 AND BH2015/04575 FOR MIXED USE REDEVELOPMENT, INCLUDING NEW HOTELS.**

- 43.1 The Committee considered a report of the Executive Director, Economy, Environment and Culture seeking approval to vary the Heads of Terms of two proposed Section 106 Agreements in connection with planning applications BH2015/04577 and BH2015/04575 which were "Minded to Grant" by Members at the meeting of the Committee held on 13 July 2016, in order to reduce the level of financial contribution towards the Brighton and Hove Local Employment Scheme (BHLES).
- 43.2 The Planning Manager, Major Applications, Paul Vidler, explained that the developer had written to the Council to request that payment of the financial contributions towards the Brighton and Hove Local Employment Scheme be reduced in accordance with the latest Developer Contribution Technical Guidance, which had a different methodology for calculating contributions. The Local Planning Authority was satisfied that there had been a relevant change in circumstances since the committee report had been finalised, that the updated Guidance was a material consideration and that in that context the applicant's request was considered reasonable.
- 43.3 Councillor C Theobald sought further clarification regarding how this figure had been arrived at as the variance between the previously agreed figure and that now being put forward appeared to be considerable. The Local Employment Scheme Co-ordinator, Linda Shaw responded detailing the initiatives which were in place and how the contribution towards the Council's Local Employment Scheme was being pursued pro-actively where appropriate across the City, citing examples of where this had been used.
- 43.4 The Chair, Councillor Cattell, thanked Officers for the information provided which gave Members a valuable insight into this matter.
- 43.5 A vote was taken and Members voted unanimously that the recommendations set out below be approved.
- 43.8 **RESOLVED** – That the proposed variations to the Heads of Terms be agreed as follows:

- (1) BH2015/04577 (78 West Street & 7-8 Middle Street Brighton): financial contribution of £62,050 towards the Brighton and Hove Employment Scheme be reduced to £13,300; and
- (2) BH2015/04575 (8-12A South Street & 79-81 West Street Brighton): financial contribution of £30,040 towards the Brighton and Hove Local Employment Scheme be reduced to £11,400.

#### 44 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

##### MAJOR APPLICATIONS

#### A BH2015/03144 - Site of Former William Moon Lodge, The Linkway, Brighton - Full Planning - Erection of two storey (plus basement) residential care home providing 75 bedrooms and 18 parking spaces and associated works.

- (1) The Planning Manager, Major Applications, Paul Vidler, gave a presentation detailing the scheme by reference to site plans, floor plans and photographs. It was explained that the application site was located on the southern side of The Linkway and was currently vacant having been formerly used by the Sussex Lantern Trust, the building formerly on the site (a large detached single storey building (D2 community use), had been demolished and the site cleared. In the wider context the site lay within a predominantly residential area. The properties on the northern side of the Linkway directly opposite the site were 3 storey terraced flats, properties to the east, west and south were 2 storey terraced dwellings.
- (2) It was explained that the main consideration in determining the application related to the suitability of the site to accommodate the proposed care home and the impact of the development upon the character and amenity of the area. Regard was also needed to the traffic and travel implications of the development, neighbouring amenity and sustainability. It was considered that the proposed development would provide much needed residential accommodation for the elderly. The proposed building was considered to be of acceptable design and that there would be no significant adverse impact upon the character or appearance of the site or on the surrounding area. The development would provide a good standard of accommodation for future occupants and would not result in significant harm to neighbouring amenity or highway; it was therefore recommended minded to grant.

##### Questions of Officers

- (3) Councillor C Theobald sought clarification regarding any trees remaining on site which were protected by TPO's, also regarding the number of staff who would be working there. It was explained that a total of 20 staff would be employed, however the number in the building at any one time would be far fewer than that due to shift patterns and the number of posts which were part time. The Development and Transport Assessment Manager, Steven Shaw, explained that as there were good public transport links to the site, some would access it on foot; the scheme fell well within recommended parking standards.

**Debate and Decision Making Process**

- (4) Councillor C Theobald stated that she considered that the proposed scheme represented a good use of the site and supported the Officer recommendation.
  - (5) Councillor Mac Cafferty supported the Officer recommendation also referring to the Age UK initiative which drew attention to the benefits of care homes growing food on site for consumption by residents, requesting that this be added as an informative to any permission granted. This was supported by Members and was voted on.
  - (6) A vote was taken and Members voted unanimously that minded to grant planning permission be given to include the informative proposed.
- 44.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to be **MINDED TO GRANT** planning permission subject to a S106 agreement and the Conditions and Informatives set out in section 11.
- B BH2016/01877 - The Shelter Hall, 150-154 Kings Road Arches, Brighton - Full Planning** - Demolition of existing building and external steps. Erection of two-storey building at lower promenade level incorporating mezzanine floor and a single storey rotunda building on the upper promenade level on raised plinth to provide mixed use development comprising retail/café/restaurant/public toilets (A1/A3/sui generis uses) and new external steps.
- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
  - (2) The Planning Manager, Major Applications, Paul Vidler, gave a presentation detailing the scheme by reference to site plans, elevational drawings and photographs. It was explained that the site was located at the bottom of West Street and involved the upper and lower seafront promenade. The Shelter Hall was an unlisted historic building with decorative features which straddled the boundaries of the Regency and Old Town Conservation Areas and was a focal point of this section of the Victorian arch development fronting the beach, which had been built as a structural element of the King's Road thoroughfare and in order to provide a recreational facility for promenaders. It had close association with the listed kiosk formerly at road level and now removed for construction in a new position.
  - (3) The main considerations in determining the application related to demolition of the unlisted building which contributed positively to the Conservation Areas, the principal of providing a larger replacement building, impact on visual amenity, crime prevention, transport demand and sustainable transport accessibility and the principle of introducing A3, A1 retail and sui generis public toilet facilities in that location. The site was in a very prominent seafront location, and was sensitively located within the conservation areas and it was considered that loss of the (non-listed) historic Shelter Hall building would cause harm to the conservation area as it contributed positively to it; however it was dangerous and beyond repair. The replacement building was needed in part to hold up the seafront road and would deliver significant highways improvements and benefits, new usable commercial

spaces that would contribute to the tourism offer of the seafront and much needed permanent public toilets. The proposed uses were considered to be appropriate for the seafront and would enhance year round tourism, would not harm the vitality and viability of any established shopping centres and would provide an attractive contemporary building.

- (4) Whilst heritage consultees had raised some concerns regarding the overall scale and detailed design of the scheme, it is considered that the scale and design had been largely justified and the revisions to the scheme had mostly mitigated this harm (and further revisions may be sought by condition). The scheme would deliver welcome regeneration of the site and would reinforce the role of the seafront as a vibrant, thriving tourist and recreational destination. It was considered that there were sound reasons to justify the loss of the historic but unlisted Shelter Hall and that significant public benefits would mitigate the harmful impact the replacement development could have on the conservation areas and approval was therefore recommended.

### **Questions of Officers**

- (5) Councillor Mac Cafferty queried that this application had been brought forward for consideration by the Committee without the requirement for Listed Building Consent for its demolition. It was explained that this had been granted in March 2016, in order to facilitate repair and restoration of the kiosk and its relocation to East Street Bastion. Approval had also been given at that time to removal of a section of seafront railings and a lamppost.
- (6) Councillor Morris asked to see elevational drawings showing the north elevation, location of the vents associated with the development and clarification of how they would read from the promenade and from street level.
- (7) Councillor Janio asked to see drawings showing the Shelter Hall and as it appeared currently and giving perspectives of the completed scheme in order that he visualise it within the wider context of the seafront. Also, arrangements for access by cyclists.
- (8) Councillor Hyde sought confirmation that there no conflict would occur between cyclists and others. The Development and Transport Manager, Steven Shaw, confirmed that the issues of pedestrian access, cycle parking, disabled access and parking had been fully considered and were deemed to be acceptable subject to the inclusion of conditions relating to cycle parking, deliveries/loading and CEMP.
- (9) Councillor Gilbey sought confirmation regarding landscaping proposed. In answer to questions disabled access arrangements were shown and it was explained that there would be level access to the disabled toilet facilities. Councillor Miller sought information regarding their configuration and whether they would be mixed but it was explained that would be an operational matter.
- (10) Councillor Moonan referred to the existing subway access enquiring whether refurbishment was intended in concert with this scheme. It was explained that fell outside the remit of this planning application.

### **Debate and Decision Making Process**

- (11) Mr Gowans CAG, referred to the comments made by CAG that whilst they welcomed the proposals in principle they had grave concerns regarding the inadequacy and piecemeal nature of information provided in relation to a site located in a key sea front location.
- (12) Councillor Moonan referred to comments received from the Police and it was explained that the proposed café would have standard hours of operation. Councillor Moonan considered that was acceptable stating that she supported the vital work being carried out and proposals for reinvigoration of the sea front which would result.
- (13) Councillor Morris stated that he supported the proposals which were being undertaken on the back of the necessary repairs and which would enhance this as a sea front destination and would provide a landmark for visitors. Councillor Miller concurred in that view.
- (14) Councillor Littman stated that he considered that the proposals would result in significant improvements to that part of the seafront, he therefore supported the officer recommendation.
- (15) Councillor Mac Cafferty stated that whilst unhappy at the manner in which the Listed Building element of the scheme had been processed, he supported the scheme overall.
- (16) Councillor Russell-Moyle stated that he fully supported the scheme but was anxious to ensure that measures were undertaken to ensure that features such as the silver keystones and Neptune's Head Seal were retained and reinstated appropriately, ideally to the front of the building. In his view they were integral to the seafront environment and should be retained as such, he wished additional conditions to be included to ensure this took place. Members of the Committee were in agreement voting that additional conditions to that effect were included in any permission granted.
- (17) A vote was taken and Members voted unanimously that minded to grant planning permission be given to include the amendments and additional conditions set out below.

44.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement and the Conditions and Informatives set out in section 11 and amendments/additions set out below.

Delete Condition 7;

Amend Condition 2 to reflect amended and additional plans received;

**Additional Condition(s):**

12e) the replica head and shields be installed on the front of the building;

**Additional Informatives:**

Conditions 12/13/15 to be delegated by the Planning Applications Manager in consultation with the Chair



**C BH2016/01592 - Household Waste Recycling Site, Modbury Way, Hove - Removal or Variation of Condition** - Application for variation of condition 3 of application BH2015/00180 to allow the transfer facility to accept street cleansing waste, waste from communal bin operations, cardboard, green garden waste from Brighton & Hove City Council collections, re-usable, recyclable, recoverable and residual waste arising from Household Waste Recycling Sites, commercial recyclable waste and commercial residual waste for energy recovery or landfill. (Retrospective)

- (1) The Principal Planning Officer, Steve Tremlett, gave a presentation by reference to site plans, photographs and drawings. It was noted that the Hove Household Waste Recycling Site was of approximately 2.0 ha with a floor area of 2800m<sup>2</sup> and was accessed the south side of Old Shoreham Road. There were industrial buildings to the north and the Hove Technology Centre was located to the east. The west flank of the site was backed onto by residential dwellings with gardens in Aldrington Avenue. At the southern end of the site was a large shed where domestic refuse and the recyclable material is collected and sorted.
- (2) Planning permission was sought to vary condition 3 of application BH2015/00180 to allow the transfer facility to accept street cleansing waste, waste from communal bin operations, cardboard, green garden waste from Brighton & Hove City Council collections, re-usable, recyclable, recoverable and residual waste arising from Household Waste Recycling Sites, commercial recyclable waste and commercial residual waste for energy recovery or landfill. This application sought to regularise an activity which had been occurring at the site for the last two/three years to allow a broader range of commercial waste to be processed at the site.
- (3) The proposed variation was considered to be acceptable and would result in a modest change to vehicle trips and waste volume passing through the site. In response to concerns raised in relation to the processing of source-separated household food waste, the applicant had indicated that this aspect of the application was no longer being pursued. Approval was therefore recommended.

#### **Questions of Officers**

- (4) Councillors Mac Cafferty and Littman sought clarification as to whether food waste would be processed at the site and it was confirmed that this would not be processed on the site.

#### **Decision and Debate**

- (5) Members then moved to the vote and on a vote of 11 with 1 abstention planning permission was granted.

44.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report 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 and the amendment set out .

#### **Amend Condition 3:**

The premises shall be used for no other purpose than as a Household Waste Recycling Site and transfer facility for wastes from East Sussex and Brighton & Hove Household Waste Recycling Sites, commercial waste, street cleansing waste (including fly tipped waste and bulky waste collections), communal bin operations, cardboard and green waste, and on occasions when the Hollingdean MRF or WTS facility are unavailable or where there are other exceptional conditions the site shall be used as a transfer facility for kerbside collected waste and recyclables (not to exceed 20 days per year, except where agreed in writing by the Local Planning Authority).

**Reason:** Due to the proximity of residential properties there is a need to secure control over additional activities on the site in the interests of protecting residential amenity and in accordance with policy WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan and policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.

### MINOR APPLICATIONS

#### D **BH2016/02329 - 308 Dyke Road, Brighton - Full Planning**

Erection of three bedroom residential dwelling with associated parking and landscaping to replace existing garages.

- (1) It was noted that this application had been subject to a site visit prior to the meeting.
- (2) The Planning Manager, Major Applications, Paul Vidler gave a presentation detailing the scheme by reference to site plans, floor plans, elevational drawings and photographs detailing the proposed scheme. It was explained that the site currently comprised a row of 5 garages which were accessed via a driveway off Dyke Road between 306 & 308 Dyke Road. The proposals were also shown in the context of the boundary wall and vegetation between the application site and the neighbouring plots, visuals indicating sight lines to/from the application site were also shown. 308 Dyke Road which adjoined the site was a detached two-storey building comprising 5 flats, including accommodation located in the roof slope. One of the flats included an outside terrace area over a rear extension. Dyke Road predominately comprised large detached buildings set in substantial grounds. The main considerations in determining the application related to whether the scheme was appropriate in terms of its design and impact on the amenity of adjacent properties, highway considerations, sustainability and the standard of accommodation which would be provided. Differences between the current and previously refused scheme were shown.
- (3) It was considered that the proposed development would have an acceptable impact on the character and appearance of the locality, and on the amenity of occupiers of neighbouring properties. The proposed dwelling would provide acceptable living conditions for future occupiers and approval was therefore recommended.

#### **Public Speakers**

- (4) Councillor Taylor spoke in his capacity as a Local Ward Councillor setting out his objections to the proposed scheme and those of his fellow ward councillors, Councillor A and K Norman and the neighbouring objector. Councillor Taylor stated that objectors

including himself and his fellow Ward Councillors were very concerned that if built this development would be detrimental to the amenity of existing residents in Dyke Road and Maldon Road and lead to a serious sense of enclosure. The proposed property would be very close to the boundary of both existing properties and could therefore potentially overshadow the gardens of those residents. Objectors were also concerned that the design which was not in keeping with the existing street scene would be clearly visible from neighbouring properties. Councillor Russell-Moyle sought clarification from Councillor Taylor regarding the loss of amenity envisaged by objectors.

- (5) Mr Stern, the applicant spoke in support of his application. He explained that the current application had been carefully designed and simplified following consultation with the Council's planning officers in order both to overcome the reasons for refusal of an earlier application and to respect the amenity of neighbouring dwellings.

### **Questions of Officers**

- (6) Councillor Morris sought clarification regarding the density of the proposed form of development.
- (7) In answer to questions, it was explained that the proposed form of development would be approximately 25% smaller than the previous scheme, would have a larger garden area and would be located further from the boundaries with neighbouring development. The potential for overlooking had been carefully considered and windows would be at differing levels from that of neighbouring properties in order to address that issue.
- (8) Councillor Mac Cafferty enquired whether the earlier approval (March 2015), had been given by the Committee and it was confirmed that it had. Councillor Littman sought confirmation that, if they so wished, the applicant could build that larger development in line with the extant permission and it was confirmed that they could.
- (9) Councillors Moonan and Russell-Moyle sought further clarification in relation to the boundary treatments to be used, also whether any additional screening was proposed. It was explained that in addition to the existing boundary walls and vegetation some additional fenced screening would be provided.
- (10) Councillor Hyde asked for confirmation of the distance between the proposed development and the boundary with the neighbouring plots at its closest point, stating that she had some concerns in relation to the distance between this back land site and 308 Dyke Road itself. In answer to further questions it was explained that this scheme had a different footprint and would be located further away than originally proposed.
- (11) Councillor C Theobald enquired regarding the level of on-site parking proposed and the available vehicle turning arrangements. The Development and Transport Assessment Manager, Steven Shaw, explained that this remained unchanged from the previously approved scheme and met the requirements of the Highway Code and did not therefore represent a traffic safety risk.
- (12) Councillor Gilbey referred to the access arrangements to the site and it was confirmed that these remained unaltered from previous applications. Councillor Janio queried whether this arrangement could be hazardous, particularly at night. It was confirmed

however that it was considered to be of sufficient width and to meet safety requirements.

### **Debate and Decision Making Process**

- (13) Councillor C Theobald stated that she considered the proposed development would be cramped and unneighbourly and also had concerns regarding access/egress arrangements.
- (14) Councillor Gilbey stated that she had not felt able to support the earlier application, but considered that the current one was better designed and was acceptable.
- (15) Councillor Littman stated that whilst the current scheme did not in his view have a significantly smaller footprint than that for which there was extant approval, it was an improvement on that and on balance he considered it to be acceptable.
- (16) Councillor Hyde stated that whilst she considered the proposed scheme acceptable she was mindful of need for a suitable render to be used, citing examples where through render had been used on other developments and had deteriorated very quickly. Councillor Hyde considered that a wet render surface would be appropriate, the applicant indicated their willingness to use that treatment. On that basis Councillor Hyde requested that an additional condition to that effect be added to any permission granted. The Legal Adviser to the Committee, Hilary Woodward, explained that this would not be appropriate, but that an informative to that effect could be added if Members were minded to do so. Councillor Mac Cafferty indicated his willingness to support Councillor Hyde's proposal and it was therefore voted on as part on the substantive recommendations.
- (17) The Chair, Councillor Cattell stated that in in her view this scheme represented innovative use of a modest space.
- (18) A vote was taken and on a vote of 11 to 1 Members voted that planning permission be granted to include the addition of an informative requesting that a wet rather than through render finish be used.

- 144.4 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report 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 and to the additions and amendments set out below.

### **Additional Condition 12**

No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be implemented as agreed and thereafter retained as such.

Reason: To ensure a satisfactory appearance to the development and to comply with policy CP15 of the City Plan Part One.

### **Amendments Attached to Conditions:**

**Condition 4:**

**Reason:** to ensure a satisfactory appearance to the development and to comply with policy CP15 of the City Plan Part One;

**Condition 6:****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;

**Condition 7:****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;

**Additional Informative:**

The Local Planning Authority would prefer the use of wet render rather than a through coloured render.

**E BH2016/01847 - 51 Plymouth Avenue, Brighton - Full Planning**

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

- (1) The Planning Major Applications, Paul Vidler, gave a presentation by reference to plans, elevational drawings, floor plans and photographs detailing the scheme. It was noted that the site related to a two storey semi-detached property on the south western side of Plymouth Avenue. The main considerations in determining this application related to the principle of the change of use, impact on neighbouring amenity the standard of accommodation which the use would provide and transport issues.
- (2) The Planning Manager, Major Applications, Paul Vidler, referred to late representations which had been received objecting on the ground that the proposal would be contrary to the 10% threshold set out in City Plan Policy CP21. He explained that the proposal complied with the threshold and that this was addressed in the report and that the proposal was acceptable in principle at that location and accorded with the Council's emerging policy on HMO's.
- (3) The development would not result in significant harm to neighbouring amenity and would not create a harmful demand for travel; approval was therefore recommended.

**Public Speakers**

- (4) Mr Cager and Ms Game spoke as local residents setting out their objections to the scheme. The proliferation of HMO's in their area was having a significantly detrimental impact and was changing the demographic of the area, from one essentially of family homes and was impacting negatively on residents, in terms of their local shops and facilities on jobs and on local schools where the number of pupils on roll was dropping. Residents had been vocal in raising these concerns at Local Action Team (LAT) meetings and felt that their very real concerns had been unheeded. A petition was being prepared for consideration by Full Council requesting this issue be addressed city wide. It was anticipated this would attract a large number of signatures.

- (5) Councillor Marsh spoke in her capacity as a Local Ward Councillor setting out her objections and those of her fellow Ward Councillors. Across her Ward as a whole there were some 800 HMO's with a huge impact for residents which had been dismissed. As well as changing the character of the area and the impact that had for residents, there were also issues around noise disturbance and the amount of refuse generated. A firm which specialised in buying up family houses and converting them into student accommodation had bought up a number of houses, a trend which appeared to be continuing. This gave rise to particular problems in her area, but was also creating problems in other parts of the city and formed part of a "bigger" picture. The recent Article 4 Direction measures appeared to have come too late to stem this issue in her ward and this matter was one of grave concern.

### **Questions of Officers**

- (6) Councillor Gilbey requested confirmation of the number of HMOs in the immediate area as the number of these seemed to be very high. Councillor Allen stated that whilst acknowledging that this use might be acceptable in terms of its distance from the nearest HMO, it would have been useful to have an idea of the number within the area/ward overall as clearly that formed part of a bigger picture.
- (7) Councillor Russell-Moyle sought clarification of the manner in which HMO's were calculated and were included and whether the pressure on local amenities created due to those who were only in residence for part of the year were subject to analysis and could be taken account of. Also, that HMO's (particularly those occupied by students), tended to have a higher turnover rate than other types of rented accommodation. The Planning Manager, Major Applications, explained that it was very difficult to assess this on a case by case basis and that it would be very difficult to sustain refusal on those grounds. Policy CP21 of the Brighton and Hove City Plan Part One specifically addressed the issue of changes of use to either class C4 a mixed C3/C4 use or to a sui generis House in Multiple Occupation, this application did not fall contrary to that.
- (8) Councillor Gilbey requested clarification of the factors which were likely to be taken account of by the Planning Inspectorate should the Committee be minded to refuse the application. The Legal Adviser to the Committee, Hilary Woodward, explained that the Inspector would be mindful of recently adopted Local Planning Policy, as in principle this location accorded with the Council's policy on HMO's and had not been identified as having a detrimental impact on amenity it was unlikely that refusal would be successful at appeal and likely that the applicant could make a successful request for award of costs.

### **Debate and Decision Making Process**

- (9) Councillor Hyde stated that she had every sympathy with the concerns expressed and was very uncomfortable about supporting this application, considering that an urgent review of the measures which could be put into place to address this issue was needed. Regrettably, however, in view of the provisions of CP21 and the advice given she felt obliged to accept the recommendation to grant.

- (10) Councillor Janio was in agreement that this matter needed to be looked at particularly as there appeared to cross party recognition that this was a problem which needed to be addressed.
- (11) The Chair, Councillor Cattell, noted all that had been said and shared the concerns expressed but stated that they fell outside the remit of Planning Committee. She was aware that a Working Group had been set up tasked with looking into this issue and how it could best be addressed.
- (12) Councillor Miller stated that HMOs could be occupied by those other than students, but agreed that the Committee's hands were tied, also that existing policies needed urgent review. Currently the policy was one step behind what was happening across the city and it needed to be one step ahead. He hoped that a petition to Full Council would add impetus to that. Councillor Miller asked what the status of the application would be if all Members of the Committee were minded to abstain. The Legal Adviser to the Committee and Democratic Services Officer conferred and were of the view that the outcome of such a vote would be a deemed refusal.
- (13) Councillor Moonan stated that she considered her hands were tied and that the current situation in respect of HMOs did not reflect where her heart lay. She was aware of the existence of the Working Group which was looking at the number and location of HMOs as a matter of priority and wanted all present to be aware of that.
- (14) Councillor Littman concurred with all that had been said stating that he was very unhappy with the situation. Article 4 Directions would assist some wards but this remained a problem elsewhere.
- (15) Councillor C Theobald stated that she was not happy that family homes were being lost due to their conversion into HMOs considering that it should be possible for exceptions to policy to be made.
- (16) Councillor Mac Cafferty stated that for him it was very much an issue of head and heart, considering that urgent work was needed to address existing policy in relation to HMOs. He could not support the Officer recommendation and would be voting that the application be refused.
- (17) A vote was taken and on a vote of 5 to 2 with 5 abstentions Members voted that planning permission be granted.
- 44.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report 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 and to the amendments set out below.  
Conditions 1), 2) and 3) to be renumbered to 2), 3) and 4;

**Amendment to Condition 4** – to read:

4) The development hereby approved shall be implemented in accordance with the proposed layout detailed in drawing no.1502/CU01 received on 20 May 2016 and shall be retained as such thereafter. The ground floor rooms annotated as living room,

kitchen and utility room as set out on drawing no. 1502/CU01 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;

**Additional Condition 5** – to limit number of occupants taking into account the size of the bedrooms:

5) 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.

Whilst the communal areas are considered appropriate for up to 4 occupants if the property were further extended above this occupancy level it is not considered that an adequate level of accommodation would be provided. As such this condition is considered necessary.

**F BH2016/02069 - 42 Hawkhurst Road, Brighton - Full Planning**

Change of use from three bedroom house (C3) to six bedroom small house in multiple occupation (C4) with hip to gable roof extension with front rooflights and rear dormer.

- (1) It was noted that as the Ward Councillor had withdrawn their objection to the scheme it had been approved under officer's delegated authority.

**G BH2016/01224 - 11 Boundary Road and land to rear of Harbour Mews, Hove - Full Planning** - Conversion of existing ground floor rear office (B1) and demolition of existing warehouse (B8) at rear to create 1 no two bedroom flat (C3) incorporating single storey side/rear extension and erection of 1 no three bedroom house with associated landscaping and car parking.

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Planning Manager, Major Applications, Paul Vidler gave a presentation by reference to site plans, elevational drawings and photographs showing the application site in context with the neighbouring street scene and the properties in Harbour Mews. It was noted that the application related to a single storey, dual-pitched roof, warehouse to the rear of no. 11 Boundary Road within Harbour Mews. The application also involved an existing single storey rear, flat roof, extension to no. 11 Boundary Road, which provided ancillary office space for the warehouse use. The warehouse and premises was currently vacant. The main considerations in respect of this application were the principle of development on the site, the impacts of the proposed dwelling on the character and appearance of the street, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, and sustainability and traffic issues.
- (3) The principle of the development was considered to be acceptable and the development would make efficient and effective use of the site and would have no adverse impact on the character and visual amenity of the locality. It would provide a



new unit of housing with an adequate standard of accommodation without detriment to neighbouring amenity or highway safety and approval was therefore recommended.

### Questions of Officers

- (4) Councillor Mac Cafferty queried the reference to Georgian properties in the vicinity and it was confirmed that should have been Victorian.
- (5) Councillors C Theobald and Miller sought clarification regarding the height of the proposed development.
- (6) Councillor C Theobald also enquired whether any of the windows to the proposed development would overlook the neighbouring properties in Seafield Road. It was confirmed that there were only roof lights proposed to that elevation.

### Debate and Decision Making Process

- (7) Councillor Theobald stated that she had found the site visit beneficial as it had dispelled any concerns she had had regarding the proposed scheme.
- (8) A vote was taken and the ten members present when the vote was taken voted unanimously that planning permission be granted.

44.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report 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.

**Note:** Councillors Moonan and Morris were not present during consideration of the above application or when the vote was taken.

### H **BH2016/01756 - 18-19 Ship Street, Brighton - Full Planning**

Erection of upper first floor rear extension to create one bedroom flat.

- (1) It was noted that this application had been subject to a site visit prior to the meeting.
- (2) The Planning Manager, Major Applications, Paul Vidler, gave a presentation detailing the scheme by reference to drawings and photographs showing the site as existing and the proposed scheme. It was noted that the application related to a double fronted 1970's building built over four floors (including basement) to the western side of Ship Street. The building comprised a hairdressers to ground floor with associated studio space at lower ground floor level. The first floor was in residential use with the second floor in office use. The rear section of the building, set out over two floors, was solely in residential use other than the roof terrace above the flat roof which was associated with the existing second floor office space.
- (3) The Old Town Conservation Area in which the application site sat was characterised as an area of very tight knit urban grain in a largely informal street pattern with buildings of generally small scale but with some larger and later 19th century or early 20th century buildings in the main streets. It is also a very mixed use area with mainly

commercial uses at street level and mixed uses above. Many of the buildings in the close vicinity are Grade II Listed, including numbers 15 and 16 immediately adjacent, numbers 14, 14A and 15 to the south, number 22 to the north and numbers 58, 59, 62, 63 and 64 on the opposite side of the road. To the west of the site is the Grade II\* Listed Hippodrome on a much larger scale with later extension visible from Ship Street. The main considerations in determining the application were the principle of the development, the impact on the character and appearance of the building, the Old Town Conservation Area and adjoining listed buildings, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, and sustainability and traffic issues.

- (4) It was considered that the proposal would detract from the appearance and character of the building and would fail to preserve the conservation area and would result in harm to the setting of the adjoining listed buildings. It would also result in harm to the residential amenity of neighbouring occupiers and would fail to provide an acceptable standard of accommodation for future occupiers and refusal was therefore recommended.

### Public Speakers

- (5) Mr Parsons spoke on behalf of the applicants in support of their application. He stated that the scheme had been designed in order to respect the neighbouring properties to the rear, the proposed form of development was sympathetic to that and would not increase or exacerbate the level of mutual overlooking which already existed.

### Debate and Decision Making Process

- (6) Councillor Mac Cafferty stated that having listened carefully to what had been said by the applicant's agent and having viewed photographs of the site which had been submitted he did not agree that there would be a significant impact on the existing properties to the rear, given that mutual overlooking already existed, he did not therefore support the officer recommendation.
- (7) A vote was taken and the 11 Members present during consideration of the application and when the vote was taken voted 8 to 2 with 1 abstention that planning permission be refused.

44.8 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and resolves to **REFUSE** planning permission for the reasons set out in section 11.

**Note:** Having declared a personal and prejudicial interest in the above application Councillor Morris left the meeting and took no part in its consideration or the debate, decision making process or voting thereon.

### I **BH2016/01757 - 18-19 Ship Street, Brighton - Full Planning**

Creation of additional floor to create one three bedroom flat with associated alterations.

- (1) It was noted that this application had been subject to a site visit prior to the meeting.

- (2) The Planning Manager, Major Applications, Paul Vidler, gave a presentation detailing the scheme by reference to plans drawings and photographs. It was noted that the application related to a double fronted 1970's building built over four floors (including basement) to the western side of Ship Street. The building comprised a hairdressers to ground floor with associated studio space at lower ground floor level. The first floor was in residential use with the second floor in office use. The rear section of the building, set out over two floors, was solely in residential use other than the roof terrace above the flat roof which was associated with the existing second floor office space.
- (3) The main considerations in the determination of this application were the principle of the development, the impact on the character and appearance of the building, the Old Town Conservation Area and adjoining listed buildings, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, and sustainability and traffic issues. It was considered the proposal would detract from the appearance of character and of the building. It would fail to preserve the conservation area and would result in harm to the setting of adjoining listed buildings. The proposal would result in harm to the residential amenity of neighbouring occupiers and would fail to provide an acceptable standard of accommodation for future occupiers. Whilst acknowledging the need for additional housing in the city it is not considered that a modest gain of one residential unit outweighed the significant harm which would result; refusal was therefore recommended.

### Public Speakers

- (4) Mr Parsons spoke on behalf of the applicants in support of their application. He reiterated that although this represented a different form of development from that requested by the previous application, this scheme had also been sympathetically designed to enhance the existing building without detriment to its neighbours.

### Debate and Decision Making Process

- (5) Councillor Mac Cafferty stated that he did not support the view that would result in a bulky and overbearing structure, particularly when considered in the context of the height of the fly tower at neighbouring Hippodrome site were that building to be redeveloped in line with the extant permission. He considered the proposal would tidy up the existing development.
- (6) The Chair, Councillor Cattell, stated that she considered that the varying neighbouring roof heights contributed to the townscape of the area and that she supported the officer recommendation.
- (7) A vote was taken and the 10 Members present during consideration and voting on the above application voted by 6 to 2 with 2 abstentions that planning permission be refused.

- 44.9 **RESOLVED** – That the committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report and the policies and guidance in section 7 and resolves to **REFUSE** planning permission for the reasons set out in section 11.

**Note:** Having declared a personal and prejudicial interest in the above application, Councillor Morris left the meeting and took no part in the consideration of the application, the debate and decision making process or the voting thereon. Councillor Moonan was also not present at the meeting during consideration or voting on the application.

**J BH2016/00954 - 3 Hove Street, Hove - Full Planning**

Erection of orangery extension to rear.

- (1) The Planning Manager, Major Applications, Paul Vidler, gave a presentation detailing the scheme by reference to site plans, elevational drawings and photographs showing the existing beer garden on which it was proposed the orangery would be erected. It was noted that the application site was a link-detached three storey property located on the eastern side of Hove Street in the Old Hove Conservation Area. Architecturally it was a good example of an early twentieth century public house with its design surviving intact and with its original use remaining.
- (2) The main considerations in determining the application related to the impact of the proposed extension on the character and appearance of the existing locally listed property, the street scene and wider conservation area and any impact on the amenities of neighbouring properties. The building was in use as a public house and restaurant with a beer garden to the rear which could be used until 11.00pm. Amendments had been made during the lifetime of the application to address any concerns raised by neighbours regarding noise pollution. It was considered that the proposed extension would not harm the appearance of the property, the wider area or the amenities of adjacent occupiers and approval was therefore recommended.
- (3) Members had no questions and moved directly to the vote. A vote was taken and the 10 Members present at the meeting voted unanimously that planning permission be granted.

44.10 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 of the report 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.

**Note:** Councillors Moonan and Morris were not present during consideration of the above application or when the vote was taken.

**K BH2016/00752 - 101 Roundhill Crescent, Brighton - Full Planning**

Erection of 1no three bedroom dwelling (C3) incorporating alterations to boundary wall and external alterations to existing building including repair works, alterations to fenestration and associated works.

- (1) Members agreed that it would be beneficial to carry out a site visit prior to determining this application. It was noted that as no discussion had taken place the opportunity to speak would be held over to the next meeting of the Committee.

44.11 **RESOLVED** – That the consideration of the above application be deferred pending a site visit.

**L BH2016/00753 - 101 Roundhill Crescent, Brighton - Listed Building Consent**  
Erection of 1no three bedroom dwelling (C3) incorporating alterations to boundary wall and external alterations to existing building including repair works, alterations to fenestration and associated works.

(1) Members considered that it would be beneficial to hold a site visit prior to determining this application pending a site visit. It was noted that as no discussion had taken place the opportunity to speak would be held over to the next meeting of the Committee.

44.12 **RESOLVED** – That consideration of the above application be deferred pending a site visit.

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

.1 **RESOLVED** – That the following site visits be undertaken by the Committee prior to determination of the application:

<b>Application:</b>	<b>Requested by:</b>
K, L, BH2016/00752 and BH2016/00753, 101 Roundhill Crescent, Brighton	Councillor Hyde

**46 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**

46.1 The Committee noted the position regarding pre application presentations and requests as set out in the agenda.

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

47.1 That the Committee notes the details of applications determined by the Acting Executive Director Economy, Environment & Culture under delegated powers. It was noted that on this occasion the information provided related solely to arboricultural matters.

[Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Assistant Director, City Development and Regeneration. The register complies with legislative requirements.]

[Note 2: A list of representations received by the Council after the Plans List reports had been submitted for printing was circulated to Members on the Friday preceding the meeting. Where representations are received after that time they should be reported to the Chair and Deputy Chair and it would be at their discretion whether they should in exceptional circumstances be reported to the Committee. This is in accordance with Resolution 147.2 of the then Sub Committee on 23 February 2006.]

**48 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

48.1 The Committee noted the new appeals that had been lodged as set out in the planning agenda.

**49 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

49.1 The Committee noted the information regarding informal hearings and public inquiries as set out in the planning agenda.

**50 APPEAL DECISIONS**

50.1 The Committee noted the content of the letters received from the Planning Inspectorate advising of the results of planning appeals which had been lodged as set out in the agenda.

The meeting concluded at 6.10pm

Signed

Chair

Dated this

day of

# **ITEM A**

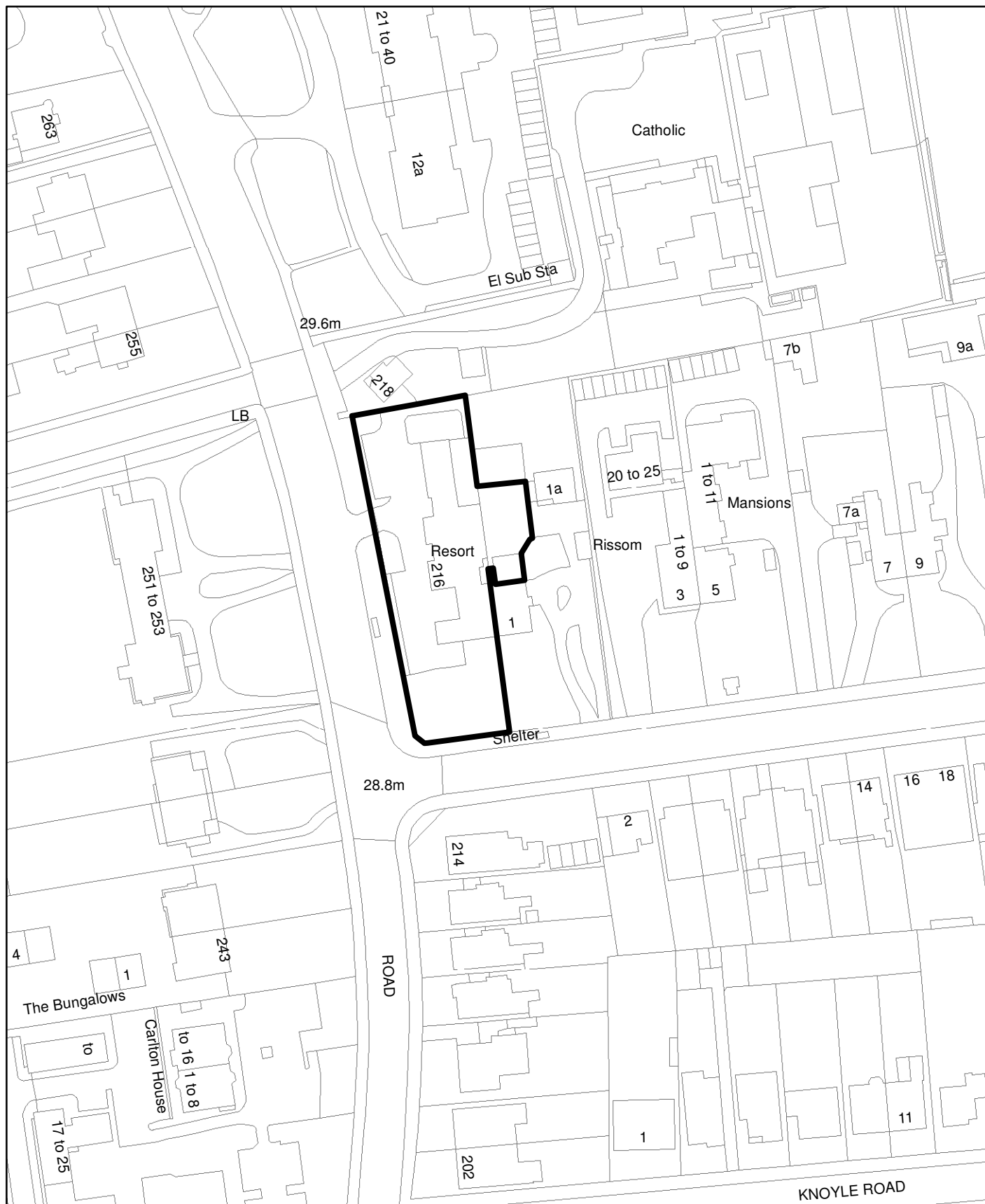
**Preston Park Hotel, 216 Preston Rd,  
Brighton**

**BH2015/04536  
Full planning**

**DATE OF COMMITTEE**







**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2015/04536</b>	<b><u>Ward:</u></b>	<b>Withdean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Preston Park Hotel 216 Preston Road Brighton</b>		
<b><u>Proposal:</u></b>	<b>Change of use of hotel (C1) to residential (C3) comprising conversion of main hotel and demolition and redevelopment of north wing, to provide 13no self-contained open market flats and 9no affordable flats, alterations to front façade, retention of 27 car parking spaces and provision of new cycle and refuse facilities.</b>		
<b><u>Officer:</u></b>	Jonathan Puplett, tel: 292525	<b><u>Valid Date:</u></b>	15.03.2016
<b><u>Con Area:</u></b>	PRESTON PARK	<b><u>Expiry Date:</u></b>	22.03.2016
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>	Lewis and Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Preston Park Hotel Ltd c/o Lewis and Co Planning 2 Port Hall Road Brighton BN1 6UU		

## 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, the following Conditions and Informatives and no additional representations been received within the consultation period which raise new material planning considerations not covered in the report:

### 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	01	A	16 December 2015
Other	(PROPOSED SITE PLAN) 21	E	15 June 2016
Elevations Proposed	32	C	15 June 2016
Floor Plans Proposed	23	D	15 June 2016
Block Plan	20	E	15 June 2016
Elevations Proposed	26	D	15 June 2016
Sections Proposed	29	C	15 June 2016
Elevations Proposed	30	D	15 June 2016
Floor Plans Proposed	22	B	15 June 2016
Floor Plans Proposed	24	C	15 June 2016
Floor Plans Proposed	25	B	15 June 2016
Floor Plans Proposed	27	D	15 June 2016

Floor Plans Proposed	28	C	15 June 2016
Noise Report	1093.001R.1.0.R S		15 June 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 first and second floor north facing windows to the side elevation of the new building hereby approved shall not be obscure glazed and non-opening, unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall be retained as such thereafter.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 4 No cables, wires, aerials, pipework (except rainwater downpipes shown on the approved plans) meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.
- 5 The vehicle parking area shown on the approved plans shall be carried out in accordance with the approved layout and 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 City Plan Part One.
- 6 No development shall commence until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan
- 7 No development shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:
- 1:20 elevation drawings and 1:1 section drawings of all window, door and balcony balustrade types and full details of the proposed verandah restoration.
  - Samples of all external materials and hard landscaping materials

Development shall be carried out in accordance with the approved details and shall be 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 and CP15 of the City Plan Part One.

- 8 Prior to first occupation of the development hereby permitted drawings detailing the positions, height, design, materials and type of all existing and proposed boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.

**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, HE6 and QD27 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.

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

- a Details of all hard surfacing;
- b Details of all boundary treatments;
- c Details of all proposed planting, 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 City Plan Part One.

- 10 Prior to first occupation of the development hereby permitted a scheme to enhance the nature conservation interest of the site shall be 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 City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

- 11 Prior to first occupation of the development hereby permitted, full details of approved cycle parking facilities for the occupants of, and visitors to, the development shall be 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.
- 12 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.
- 13 None of the new build 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 City Plan Part One.
- 14 None of the new build 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 City Plan Part One.
15. No less than one of the new build dwellings hereby approved 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 new build 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.  
**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.

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 the Preston Park Hotel, sited on the northern corner of the junction of Harrington Road and Preston Road. The property is sited within the Preston Park Conservation Area. At present the site comprises a large hotel building set back from the highway with an open car park between. The north east corner of the building is a residential dwelling (no. 1 Harrington Road) with its own garden area, this unit is separate to the hotel use.
- 2.2 The southern end of the building is of greatest historic value, later extensions were added to the north of this structure and a modern flat roofed wing is in situ to the northern end of the site. The boundary wall to the western side of the site has been removed at some point in the past which has left the car park area open to the public realm.
- 2.3 The application as originally submitted proposed 25 residential dwellings. The original proposal raised concerns in respect of the proportion of affordable housing which was proposed, the mix of unit sizes, and the standard of accommodation which the proposed units would have provided. Concerns were also raised in respect of some of the detailed design elements of the proposed external design, and in respect of the proposed car park layout and pedestrian access routes.
- 2.4 Amended drawings were submitted during the course of the application. These included:
- A reduction in number of units proposed from 25 to 22.
  - Improvement of units which had raised concerns in respect of size and standard of accommodation.
  - Improved mix of unit sizes including 3 three-bedroom units.
  - Minor design alterations to the proposed front elevation.
  - Amendments to the proposed car park layout and pedestrian access.
- 2.5 The agent for the application also subsequently confirmed that in addition to the 8 affordable units proposed in the new build element of the development, a ninth affordable unit would be delivered within the converted main building, which overall would result in a policy compliant proportion of affordable units (40.9%).
- 2.6 The council's response to the amended scheme is set out in the report below. Neighbouring occupiers have been re-consulted on these amended drawings.

## **3 RELEVANT HISTORY**

**73/2376:** Erection of extension on North side of existing premises to form 10 new bedrooms with ancillary accommodation over and internal alterations to existing premises. Approved 25/09/1973.

#### **4 REPRESENTATIONS**

4.1 **Six (6)** letters have been received from nos. **1, 1A and 4 Harrington Road, a Ms Akrem-Abdul of Harrington Road (full address not provided) and from St Bernadette's Catholic School** objecting to the proposed development for the following reasons:

- The existing hotel use may still be viable; it is often full particularly when events are staged in the city.
- The proposed construction works will cause noise disturbance for occupiers of no. 1 Harrington Road.
- No details of soundproofing proposed between no. 1 Harrington Road and the proposed flats has been provided.
- A proposed balcony to the southern elevation would overlook the garden of no. 1 Harrington Road.
- A storage room which forms part of no. 1 Harrington Road's demise would open into the grounds of one of the proposed flats.
- The proposed development will cause additional overshadowing and overlooking of no. 1A Harrington Road.
- Vehicles and general coming and goings associated with the proposed residential units will cause additional noise disturbance.
- Vehicular movements associated with the proposed residential units will result in an increased highway safety risk.
- The proposed development would result in additional demand for on-street parking on Harrington Road. On-street parking is already in high demand.
- The access to St Bernadette's Catholic School must remain clear at all times during construction works.
- The proposed construction works will cause noise and disruption to St Bernadette's Catholic School.

4.2 **One (1)** letter has been received from no. **6 Harrington Road** supporting the application for the following reasons:

- The area needs more housing of this kind and the changes proposed to the existing buildings will benefit the conservation area.

#### **5 CONSULTATIONS**

5.1 **Environmental Health: Comment**

Comment 06/04/2016:

The application looks to convert, and re-develop the current hotel, to create a number of residential units.

5.2 At pre-app in June 2014, environmental health raised the fact that the proposed development is located very close to the A23. It was stated that acoustic information would be required to show what measures would need to be



installed to protect future residents. No acoustic data seems to be attached to the current application.

- 5.3 Defra noise maps estimate that road traffic noise near the proposed buildings is around 60 - 64.9dB (A) at night and 70 - 74.9dB (A) during the day. This raises concerns over the level of noise generated by road traffic as Environmental Health does not have any legislative powers to retrospectively deal with road traffic noise. We would therefore require an acoustic survey to identify background levels, and if necessary give recommendations on what works are needed to ensure the new residential dwellings will not be affected by road traffic noise.
- 5.4 Environmental Health uses a number of professional standards (World Health Organisation Guidelines on Community Noise and BS8233) to assess whether internal noise levels within a property will be acceptable. Without any levels of noise known, it impossible to foresee what level of mitigation measures may be necessary, if any, to protect residents.
- 5.5 Further to the noise problems due to the heavy use of A23 there is also likely to be an effect on air quality and as such Samuel Rouse has been copied in to ensure that he is aware of these comments.
- 5.6 The NPPF recognises the need to protect future residents from potential noise pollution and this is shown in paragraphs 109,110 and 123.
- 5.7 An acoustic report has not been submitted, and overall the application submission fails to demonstrate that future occupiers would not suffer harmful noise disturbance.
- 5.8 Further comment 18/08/2016:  
Due to high road traffic noise, the submitted report identifies that mitigation measures will be necessary with regards to glazing. The report goes on to show that the degree of protection will differ for each façade of the building. Table 6.4 within 7th Wave's report outlines the levels of protection that will need to be achieved at differing facades.
- 5.9 Furthermore because desired internal noise levels can only be met with the windows closed, alternative ventilation will need to be provided that does not compromise noise insulation level of the façade or glazing. 7th Wave's report has not made suggestions as to what ventilation will be needed, so a condition will need to be applied to ensure a written scheme for suitable ventilation is submitted for approval to the local planning authority prior to development.
- 5.10 Approval is recommended subject to conditions requiring the installation of acoustic glazing mitigation measures in accordance with the submitted report and the submission of details of a ventilation system to allow for a sufficient fresh air source without windows having to be open.
- 5.11 **Heritage:** No objection / Comment

5.12 Comments 28/04/2016:

This site is located wholly within the Preston Park Conservation Area. This part of Preston Road lies within the former Clermont Estate area of Preston Park and was developed from c1870 after the opening of the nearby railway station. The various villas on both sides of the road are two storeys plus a half basement, with canted bays and large sash windows beneath overhanging eaves supported on elegant brackets. These houses once stood in large gardens set well back from the road, but regrettably many of these have become car parking areas, although substantial front boundary walls and many mature trees help to soften the impact.

5.13 The earliest part of the Preston Park Hotel was originally a house that formed part of a pair of semi-detached villas facing Harrington Road and had been built by 1874. It is painted stucco beneath a slate roof with projecting eaves and decorative eaves brackets and has a surviving ground floor verandah (though unsympathetically altered). By 1898 a double fronted building had been constructed facing Preston Road, with the appearance of a detached villa but adjoining the original house. It is in similar style but with wide canted bays.

At some time in the 20th century the buildings became used as a nursing home and were then converted to a hotel in the late 1960s. In the 1970s the current large flat roofed extension was built to the north of the site and was extended further northwards in c1994. This extension is a plain, functional structure of no architectural merit and it detracts from the appearance of the original buildings and the wider conservation area. Also c1994 the southern corner was infilled in matching Victorian style (though with a canted bay at ground floor only), so giving the appearance of a triple fronted villa.

5.14 The buildings occupy a prominent corner plot which fronts onto Preston Road and the side boundary abuts back edge of pavement along Harrington Road. Therefore, the building is prominent within the streetscene with extensive views into the site along the two streets. The original boundary walls have been lost and the frontage is an open area of car parking, further cluttered by various signage, and this frontage significantly detracts from the setting of the historic buildings and from the wider conservation area.

The submitted Heritage statement demonstrates how the site has incrementally developed over time and that the original concept of a semi-detached villa set within large grounds has long been lost. The hotel today is an untidy mix of these different phases of development, in which the original 1870s and later 19th century elements are not readily discernible, as well as unsympathetic alterations such as replacement windows and the infilling of the open verandah on the south elevation. The late 20th century flat roofed extension to the north is particularly harmful to the appearance of the area whilst the open car parking and lack of soft landscaping to the frontage provides none of the traditional screening to be found along Preston Road.

5.15 The proposal by contrast would bring a significant degree of visual coherence to the site, largely retaining the historic elements and extending the main hotel building in a manner that reflects the spirit of the original late Victorian approach to the area. The restoration of the verandah and glazing pattern are welcome enhancements, subject to detail, The demolition of the flat roofed extension and

its replacement by a separate building, is welcome. The new building would be a contemporary, simplified version of the Victorian design and would have 3 storeys with a slightly higher eaves line, but it would respect the existing building and would have a more appropriate presence in the street scene. There is some concern with regard to the modest gap between the two buildings, which could lead to a terracing effect in oblique views. This concern could be addressed by increasing the gap or by increasing the degree of building line set back either side of the gap.

5.16 Some of the new balconies in the recesses are flush with the main building line and should instead be set back at least 300mm from the face of the elevation.

5.17 The reinstatement of a front boundary wall with pillars is very welcome but it needs to be clarified whether the new wall is to extend round to the Harrington Road frontage, where there is currently a low wall and a timber fence. The front area would also benefit greatly from some tree planting to soften it. Trees and greenery are a notable feature of this part of Preston Road. Consideration should also be given to forming a separate pedestrian entrance through the wall, towards the southern corner.

5.18 Additional comments 27/06/2016 following the submission of amended drawings:

The amendments have sought to address the concern about the modest gap between the two buildings, which could lead to a terracing effect in oblique views, by setting back the north-east corner of the main building slightly. Whilst a wider gap or greater set back either side would be desirable the amendments have satisfactorily addressed the other concerns raised: by setting back all of the balconies from the main façade by at least 300mm; by reducing the width of the first floor balcony on the south side elevation; by forming a separate pedestrian entrance in the front boundary wall (aligned with the main entrance); and by including new tree planting along the frontage boundary to soften the car parking area. Overall therefore it is now considered that the proposals are acceptable from a heritage perspective and would enhance the appearance of the conservation area.

5.19 If permission is granted larger scale details would be needed of the new windows, doors and balconies, the new boundary wall and the restoration of the verandah, as well as samples of materials (including hard surface materials).

5.20 **Housing: Objection**

Comments 21/03/2016 based upon the original submission:

The city-wide Housing Strategy adopted by Council in March 2015, has as 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 (update October 2015) sets out the council's preferences with regard to units mix and design etc. where affordable housing is provided through Policy HO2/ CP20. This response outlines where the proposed application meets / does not meet the Affordable Housing Brief guidance.

- 5.21 This scheme proposes to provide 25 apartments as a refurbishment of the existing hotel plus an additional new build block which will accommodate the proposed affordable housing. The proposal currently offers 9 affordable housing units which equates to 36% which is not policy compliant with the 40% as outlined in the Affordable Housing Brief. 40% would equate to 10 properties.
- 5.22 The overall scheme (including the affordable housing) consists of 7 x 2 bed flats ; 15 x 1 bed flats and 3 x studios. The affordable housing proposed is formed of 8 x 1 bed and 1 x 2 bed 3 person wheelchair accessible unit. This is a high proportion of smaller units. One additional two bedroom unit would ensure it met the council's Affordable Housing Brief and better reflected the required unit mix.
- 5.23 Brighton and Hove is a growing City with 273,000 people in 124,000 homes, with an additional 22,840 households (914 per annum) projected to 2033. Our affordable housing brief reflects the very pressing need for affordable homes in the City.
- 5.24 In terms of need for rented accommodation: We currently have 1,601 households in Temporary Accommodation and more than 22,800 people on the joint housing register (67% of whom are in demonstrable need - Bands A to C). With half of all households in the city earning less than £28,240 per annum, the city's private sector housing is unaffordable for the majority of the population. [Source: Housing Statistical Bulletin October to December 2015]. In terms of the demand for shared ownership there are currently 753 applicants registered with the Help to Buy agent, of which 464 have a local connection by virtue of already living in the city. Additional eligible households may come forward when shared ownership properties are advertised for sale. [Source: Housing Statistical Bulletin October to December 2015].

*N.B. The scheme has been amended during the course of the application and now delivers a policy compliant scheme in respect of affordable housing.*

5.25 **Private Sector Housing:** No objection

5.26 **Planning Policy:** Comment

Comments 08/08/2016:

The loss of hotel use would not be contrary to Policy CP6 Visitor Accommodation in the City Plan Part 1 and in planning policy terms the change of use to residential would make a welcome contribution to city's housing requirements and to the city's housing land supply position (CP1 Housing Delivery).

5.27 Clarity however is required from the applicant regarding the amount and tenure of affordable housing provision; housing mix; private amenity space provision; open space and sports provision in order to assess whether the proposal complies with CP19, CP20, CP16 and CP17 of the adopted City Plan Part 1 and HO5 of the Local Plan.

- 5.28 The requirement to provide public open space is not addressed within the application site and therefore a contribution towards off-site provision will be required.
- 5.29 Further comments 23/06/2016 following the submission of amended drawings:
- 5.30 Market housing: It is welcomed that the amendments have reduced the number of studio units and introduced some 3 bed units. The scheme overall still provides a dominance of 1 bed units and a better provision of 2 bed units would be more policy compliant.
- 5.31 Affordable Housing: On a scheme of 22 units this would equate to 9 units (rounding up of 8.8 units), only 8 units have been provided and this should be clarified by the applicant. Evidence, referred to in paragraph 4.220 of the supporting text to CP20 Affordable Housing, indicates the significant need for affordable housing in the city. Paragraph 4.223 indicates that the council will seek the maximum reasonable amount of affordable housing when negotiating on individual schemes.
- 5.32 Justification for a lower provision of affordable housing will need to address criteria i-v in the policy. There is no indication of the proposed tenure of affordable housing to be provided and this should also be clarified by the applicant in order assess whether the proposal complies with CP20. The Housing Strategy Team should be consulted on this application.
- 5.33 Further comments 01/09/2016:  
Whilst it is note that the tenure(s) of the proposed affordable housing is still to be confirmed, provision of an additional unit of affordable housing (9 in total) would ensure compliance with the Policy CP20 Affordable Housing. The balance between one and two bedroom units is also improved as a result and is considered on balance to be acceptable.
- 5.34 **Sustainable Transport:** No objection  
Comments 12/05/2016:  
Amendments are required to provide a safe and enhanced pedestrian entrance to the site, amendments to disabled parking bays, and amendments to cycle storage provision. A contribution of £13,000 towards sustainable transport infrastructure in the immediate vicinity of the application site is required.
- 5.34 Further comments 14/06/2016 following the submission of amended drawings:  
All comments previously raised have been addressed; approval is therefore recommended subject to recommended conditions and securing the required contribution towards sustainable transport infrastructure in the immediate vicinity of the application site.
- 5.35 **Flood Risk Management:** No objection

Recommended approval as the Lead Local Flood Authority (LLFA) has no objections to this application subject to the inclusion of the condition below:

- 5.36 No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the Sustainable Drainage Report and Flood Risk Assessment, March 2016 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 building commencing.
- 5.37 The applicant should demonstrate the surface water drainage system is designed so that flooding does not occur on any part of the site for a 1 in 30 year rainfall event, and so that flooding does not occur during a 1 in 100 (+30% allowance for climate change) year event in any part of a building or in any utility plant susceptible to water.
- 5.38 **City Regeneration: Comment**  
City Regeneration supports this application despite the regrettable loss of a long-established hotel. It was noted that information has been provided in respect of the poor financial performance in recent years resulting in unsustainable levels of subsidy. It is indicated within the design, access and planning statement that closure of the hotel is the inevitable outcome.
- 5.39 The location of the hotel doesn't fall within the core hotel area as referred to within the Local Plan policy SR15 or emerging City Plan policy CP6 and is therefore not subject to any constraints regarding change of use. However, there is no reference within the application's supporting documents, to the marketing of the hotel which might enable a potential new proprietor to invest in the property itself and the business.
- 5.40 It was noted that there is also no indication to the number of current employees in the planning application.
- 5.41 However should the application gain approval, City Regeneration will welcome the additional accommodation that will contribute to the city's challenging housing needs.
- 5.42 Due to the number of new dwellings resulting from the development, if approved, an Employment and Training Strategy will be required to include a commitment to using an agreed percentage of local labour. It is proposed for this development that the percentage of 20% local employment for the demolition (where appropriate) and construction phases is required and early liaison with the Local Employment Scheme Co-ordinator is encouraged in order to have the Employment & Training Strategy agreed in advance and to avoid any delays in site commencement.
- 5.43 In addition to the Employment and Training Strategy, City Regeneration requests a contribution through a S106 agreement towards the Local Employment Scheme in accordance with the Developer Contributions Guidance

- 5.44 **Sustainability: Comment**  
City Plan 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.
- 5.45 CP8 sets out residential energy and water efficiency standards required to be met by the Planning Authority:  
-Energy efficiency standards of 19% reduction in CO2 emissions over Part L Building Regulations requirements 2013. (This is equivalent to energy performance from outgoing Code for Sustainable Homes to Level 4).  
-Water efficiency standards of 110 litres/person/day (equivalent to water performance standards from outgoing Code for Sustainable Homes to Level 4).
- 5.46 **Air Quality Officer: Comment**  
The application site facade is set back from the main road (A23) by at least several metres and is north of the main AQMA and the Preston Road-Preston Drove junction hotspot (2013-AQMA). Traffic to and from site is not likely to be substantial or change significantly. Surrounding pollution levels are low. An air quality assessment is not required.
- 5.47 **Ecologist: Comment**  
The application includes no proposals for enhancement of the site for biodiversity; this is required to help the Council address its duties and responsibilities under the NPPF and the NERC Act. Opportunities include the planting of climbers along the new boundary wall and the provision of bird and/or bat boxes. 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. Where possible, native species of local provenance should be used. Given the location of the site, it is recommended that bird boxes should target starlings and swifts. Woodcrete boxes are recommended for their durability.
- 5.48 If the Council is minded to approve the application, it is recommended that a condition is applied requiring an Ecological Design Strategy to enhance the nature conservation value of the site.
- 5.49 In summary, the proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective.
- 5.50 The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and NERC Act.
- 5.51 **Southern Water: Comment**  
A formal application for connection to the public sewerage system will be required. Full details of surface water drainage should be submitted.
- 5.52 **Crime Prevention Officer: Comment**  
Standard security measures are recommended.

5.53 **County Archaeologist:** No objection.

5.54 **UK Power Networks:** No objection.

5.55 **East Sussex Fire and Rescue:** No objection.

Access to the site must be provided in accordance with agreed standards; there should be vehicle access for a pump appliance to within 45 metres of all points within each dwelling.

## **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
- CP1 Housing delivery
- CP6 Visitor accommodation
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design
- CP14 Housing density
- CP15 Heritage
- CP16 Open space
- CP17 Sports provision
- 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  
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  
HO13 Accessible housing and lifetime homes  
HO20 Retention of community facilities  
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD06 Trees & Development Sites  
SPD09 Architectural Features  
SPD11 Nature Conservation & Development  
SPD12 Design Guide for Extensions and Alterations  
SPD44 Parking Standards

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the principle of the proposed development which consists of the loss of the existing hotel use and the redevelopment of the site for residential use, transport, standard of accommodation, access standards, noise disturbance / air quality, sustainability, landscaping and biodiversity.
- 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 Policy:**

- 8.1 Policy CP6 states that:

To support the city's tourism and business conference economy the council will support the provision of a sufficient and wide ranging type of visitor accommodation:

1. Proposals for new hotel accommodation will be assessed in line with the national planning policy framework and the sequential approach to site selection with proposals for new hotel development directed firstly to central Brighton (SA2).
2. Proposals for new hotel accommodation should be accompanied by an impact assessment to identify how the proposal would add to and impact on the current supply and offer of accommodation; whether it has the ability to create new demand and how it might meet needs currently unsatisfied in the city.
3. The council will work with the hotel industry to encourage the creation of apprenticeship schemes/ local jobs.
4. Proposed extensions to existing hotels will be supported where this is required to upgrade existing accommodation to meet changing consumer demands.
5. Partial conversion of a hotel will be considered where there is adequate demonstration of the need to enable investment in the remaining hotel.
6. Within the Hotel Core Zone, loss of hotels/ guest houses (serviced accommodation) will be considered where it can be demonstrated that:
  - a) The premises has limited potential to upgrade and position itself viably in the market; and
  - b) The loss of the premises would not set an unacceptable precedent in relation to the concentration and role of nearby/ adjacent serviced accommodation; and
  - c) The new use would be compatible with the character and other uses in the area.
- 8.2 The Hotel Core Zone shown on the policies map indicates the area where the main accommodation clusters and drivers of accommodation demand can be found.
- 8.3 The application property is sited outside of the Hotel Core Zone defined in the City Plan Part 1. In this case, the loss of the existing hotel use is considered to be acceptable having regard to policy CP6 which sets out an objective that new hotel accommodation should typically be directed towards central Brighton.
- 8.4 Whilst the loss of visitor accommodation is not welcomed, it is not resisted in this case as it is an objective of policy that hotel accommodation ideally be sited in the central Brighton area.
- 8.5 The proposed use as residential dwellings would contribute towards the housing needs of the city and is considered an appropriate alternative use for the site.
- 8.6 In regard to affordable housing, policy CP20 requires that development of the scale proposed provide 40% onsite affordable housing provision and policy CP19 requires a mix of unit sizes which reflect local needs. Whilst the scheme as originally submitted did not address these requirements, amended drawings have been submitted and the agent has confirmed in writing that 9 of the 22

units proposed will be affordable; 8 within the new building proposed and one within the main building. This equates to 40.9% of the overall scheme. The mix of units proposed would comprise:

Market Housing unit mix:

Studio: 1  
1-bed: 6  
2-bed: 4  
3 bed: 2  
Total: 13

Affordable Housing unit mix:

1-bed: 6  
2-bed: 2  
3 bed: 1  
Total: 9

In regard to mix of unit size, the council would normally seek:

Affordable Housing- as set out in Policy CP20:

30 % 1-bedroom units, 45% 2-bedroom units and 25% 3-bedroom units

Market Housing- as set out in the latest Housing Needs Study (June 2015):

15% 1-bedroom units, 35% 2-bedroom units, 35% 3-bedroom units, 15% 4+ bedroom units.

The proposed development would provide:

Affordable Housing-

67% 1-bedroom units, 22% 2-bedroom and 11% 3-bedroom units

Market Housing-

54% studio / 1-bedroom units, 31% 2-bedroom units and 15% 3-bedroom units.

8.7 The proposed development does not therefore provide an entirely compliant mix of unit sizes, the inclusion of six 2-bedroom units and three 3-bedroom units is however welcomed and overall, given that a policy compliant proportion of affordable housing is to be included in the development, it is considered that the unit mix proposed is acceptable in this case.

8.8 **Design and Appearance:**

It is proposed that the 1970's northern wing of the existing building be demolished and replaced with a new building which would be detached from the main hotel building. The main building would be converted to residential use. Minor external changes are proposed to the main building. The reinstatement of a boundary wall to the western side of the site is proposed.

8.9 The existing northern wing is three storey in height with a flat roof. The proposed new building to replace the northern wing is three storeys in height with a hipped roof form and hipped roof front projections. The eaves of the

proposed building would sit slightly lower than the existing flat roof level, with the main ridge of the new roof approximately 1 metre higher than the existing flat roof. Inset balconies are proposed to the front of the building at first and second floor level alongside these projections. Glazed doors and sash windows of traditional design are proposed. To the rear projecting bay windows are proposed at ground and first floor level. The north facing side elevation of the building is relatively plain with four small sash windows. This façade has been designed in response to the proximity of the neighbouring property to the north.

- 8.10 The new building would be set away from the existing main building by 1.8 metres.
- 8.11 In regard to footprint, the proposed building is very similar to that of the existing northern wing which is to be demolished. The new building extends slightly closer (500mm) to the northern boundary of the site.
- 8.12 Overall it is considered that the new building represents a high quality of design. The new building, having regard to its scale, form and detailing would sit comfortably alongside the main building which is to be retained. The gap to be retained between the main building and the new form is considered appropriate.
- 8.13 The alterations proposed to the main building which is to be retained consist of:
- \* A reconfiguration of the northern end of the building.
  - \* A reconfiguration of the section of building which sits between the front projections to the southern end of the building.
  - \* Restoration works to the southern elevation of the building.
- 8.14 These works are considered to represent sympathetic additions / alterations to the building and are welcomed.
- 8.15 In addition to the above, it is proposed that an appropriate boundary treatment (wall) would be reinstated between the pavement and the car park of the site. This would be of significant benefit to the appearance of the property and the Conservation Area street scene. The current lack of strong boundary treatment is of significant detriment to the street scene at present. New tree planting and soft landscaping is also proposed to the car park area. Conditions are recommended which would secure further details of these elements of the scheme.
- 8.16 Overall it considered that the development would deliver substantial improvements to the appearance of the site and the conservation area street scene. The proposed new building would represent a substantial improvement in comparison to the existing 1970's wing, the reinstatement of a boundary wall will provide an attractive and appropriate division between the site and the public highway, and the alterations to the main building are sympathetic in nature.

- 8.17 The Heritage Officer supports the proposed development; initial concerns were raised in respect of detailed design issues, these concerns have been addressed through the submission of amended drawings.
- 8.18 Landscaping / biodiversity:  
The proposed boundary treatments and landscaping are considered to be acceptable. Full details of landscaping and a scheme of nature conservation improvements commensurate to the nature and scale of the scheme are recommended to be secured by condition.
- 8.19 **Standard of accommodation / access standards:**  
As originally submitted, a number of the units proposed did raise concerns in respect of standard of accommodation. In response to these concerns amended drawings have been submitted, the improvements to the proposed unit sizes and layouts required a reduction in the number of units proposed, from 25 to 22.
- 8.20 The Council does not have a policy to require compliance with minimum space standards. Policy QD27 and the Core Planning Principles of the NPPF do however require that all developments deliver a good standard of amenity for all existing and future occupants of land and buildings. When assessing whether a residential development meets this objective, a useful point of reference is the Government's Nationally Adopted Space Standards (March 2015).
- 8.21 The unit sizes proposed, in comparison to Government's Nationally Adopted Space Standards (NS) are as follows:
- Studio (NS minimum 37m<sup>2</sup>): 61m<sup>2</sup>.  
1-bedroom flats (NS minimum 50m<sup>2</sup>): 50 m<sup>2</sup>, 53 m<sup>2</sup> 58 m<sup>2</sup>, 2x 60 m<sup>2</sup>, 66 m<sup>2</sup>.  
2-bedroom flats (NS minimum 61m<sup>2</sup> / 70m<sup>2</sup>): 54 m<sup>2</sup>, 62 m<sup>2</sup>, 76 m<sup>2</sup>, 78 m<sup>2</sup>, 80 m<sup>2</sup>.  
2-bedroom flats (NS minimum 74m<sup>2</sup> / 95m<sup>2</sup>): 78 m<sup>2</sup>, 102 m<sup>2</sup>, 133 m<sup>2</sup>.
- 8.22 Only one of the units (unit 13) falls below the minimum size set out by Government. As a three-person two-bedroom flat Government advises a minimum of 61sqm. This flat does however benefit from a 6sqm balcony. In addition as a unit within a building to be converted a greater degree of flexibility can be applied than would be the case in respect of a new-build dwelling.
- 8.23 It is considered that the proposed development would provide an acceptable standard of accommodation for future occupiers in respect of unit sizes, layouts natural light and outlook. 8 of the 21 units proposed would benefit from a patio area of balcony which is welcomed.
- 8.24 In order to satisfy the requirements of Policy HO13 all new build units should meet optional Building Regulations Standard M4(2) and one of the ground floor units in the new building should meet Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings). This is secured by planning condition.
- 8.25 **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.

- 8.26 In regard to the new building proposed. objections have been raised by occupants of nos. 1A Harrington Road on the grounds that the proposed building would cause additional overshadowing and overlooking and increased noise disturbance. These concerns and all of the representations received have been fully considered.
- 8.27 The element of the built form which is proposed which has the greatest impact upon neighbouring amenity is the new building to replace the existing northern wing of the building. The occupiers of nos. 218 / 218A to the north of the site and no. 1A Harrington Road will be most affected by this proposed structure. The eaves of the proposed building are slightly lower than the flat roof of the existing wing, the roof ridge of the proposed building projects higher than that of the existing wing. The footprint and overall bulk of the proposed building is similar to the existing wing.
- 8.28 Overall it is considered that the scale and bulk of the proposed building will have a similar impact to the existing wing; substantially increased harm would not be caused by the bulk of the proposed building given the scale of the existing built form.
- 8.29 In regard to overlooking, all windows proposed to the north elevation of the new building are to be obscure glazed / fixed shut and can be controlled by condition as such. To the rear (west) elevation of the new building a number of windows are proposed at ground first and second floor level. The first and second floor windows will provide views into neighbouring properties and gardens, these views will however be similar in nature to those the rear windows of the existing rear wing provide and overall it is considered that the additional overlooking caused would not be of a magnitude which warrants the refusal of planning permission.
- 8.30 In regard to the general nature of the proposed use; a residential use is considered compatible with surrounding development (residential and a school to the north). There would be coming and goings associated with the occupiers of the proposed development and also general noise and activity emanating from the building and site; such activity would not however be of a harmful nature.
- 8.31 **Sustainable Transport:**  
The proposed car park would provide 23 parking spaces and a covered cycle store. The Transport Officer has commented upon the application and considers that the scheme would have an acceptable impact subject to a contribution towards sustainable transport infrastructure. The implementation and retention of the proposed car park layout and cycle parking provision is secured by condition.

**8.32 Sustainability:**

The proposed new build units should comply with optional Building Regulations Standards for energy and water consumption which is secured by condition.

**8.33 Other Considerations:**

Objections have been raised by neighbouring occupiers in regard to the noise and disturbance that the construction works would cause. It is considered that these matters do not warrant the refusal of planning permission in this case.

**9 EQUALITIES**

9.1 The proposed new build dwellings will meet optional Building Regulations Standards and one unit will be wheelchair accessible.

**9.2 s106 Legal Agreement Requirements**

Approved is recommended subject to a completed legal agreement securing the following:

- 40% affordable housing (9 units)
- A contribution towards sustainable transport infrastructure of £11,440
- A contribution towards the Local Employment Scheme of £11,000 and an Employment and Training Strategy -including a commitment to a minimum of 20% local labour.
- A contribution towards education of £28,584.80
- A contribution towards Open Space provision of: £54,928





# **ITEM B**

**76-79 and 80 Buckingham Rd, Brighton**

**BH2016/01766  
Full Planning**

**DATE OF COMMITTEE**



# BH2016/01766 76-79 and 80 Buckingham Road, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2016/01766</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>80 Buckingham Road, Brighton, BN1 3RJ (76-79 and 80 Buckingham Road Brighton)</b>		
<b><u>Proposal:</u></b>	<b>Conversion of nos 76-79 Buckingham Road to provide four residential dwellings (C3). Demolition of no 80 Buckingham Road and the erection of a five storey building to provide 20 residential units (C3) and a community use unit (D1). Associated car parking, cycle parking, landscaping and servicing provision.</b>		
<b><u>Officer:</u></b>	<b>Gareth Giles, tel: 293334</b>	<b><u>Valid Date:</u></b>	<b>07.06.2016</b>
<b><u>Con Area:</u></b>	<b>WEST HILL</b>	<b><u>Expiry Date:</u></b>	<b>27.06.2016</b>
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>	<b>RPS CgMs 140 London Wall London EC2Y 5DN</b>		
<b><u>Applicant:</u></b>	<b>Buckingham Developments (Brighton) Ltd C/o RPS CgMs 140 London Wall London EC2Y 5DN</b>		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Block Plan Proposed	BD-MAKE-XX-00-P-A-1000/1	1	13 June 2016
Floor Plans Proposed	BD-MAKE-XX-01-P--A-2011	3	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-02-P--A-2012	3	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-03-P--A-2013	4	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-04-P--A-2010	3	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-LG-P--A-2008	4	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-LG-P--A-2009	3	17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2103	3	17 May 2016

Elevations Proposed	BD-MAKE-XX-XX-E--A-2105	0	17 May 2016
Sections Proposed	BD-MAKE-XX-ZZ-S--A-2201	3	17 May 2016
Other	BD-MAKE-XX-ZZ-SRS--A-0100	2	17 May 2016
Arboricultural Report	395-01		17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2100	4	16 August 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2101	4	19 August 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2102	4	19 August 2016
Elevations Proposed	BD-MAKE-XX-04-P-A-2014	5	28 September 2016
Roof Plan Proposed	BD-MAKE-XX-RP-P-A-2016	4	28 September 2016
Elevations Proposed	BD-MAKE-XX-XX-E-A-2104	4	28 September 2016
Sections Proposed	BD-MAKE-XX-ZZ-S-A-2200	4	28 September 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 cables, wires, aerials, pipework (except rainwater downpipes shown on the approved plans) meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.
  
- 4 The vehicle parking area shown on the approved plans shall be carried out in accordance with the approved layout and 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 City Plan Part One.
  
- 5 The community use and communal garden hereby permitted shall not be operated or open to the public outside the following hours; 10am-10pm. No variation to the above hours shall be permitted without the prior written approval of the Local Planning Authority.  
**Reason:** to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.

6 No equipment or machinery (excluding the MVHR ventilation units) shall be operated at the site outside the following hours 7am-11pm. No variation to the above hours shall be permitted without the prior written approval of the Local Planning Authority. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997. In addition, there should be no significant low frequency tones present.

**Reason:** to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.

7 No development shall commence until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

8 The development hereby permitted shall not commence 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:** This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

9 No development shall take place until a scheme setting out highway works to implement the:

- Removal of the existing recessed ambulance bay that will become redundant due to this development on Buckingham Street and reinstatement of the footway and kerb edge;
- Relocation of the communal bins adjacent to the Buckingham Street ambulance bay;
- Removal of the existing ambulance and doctors' bays on Buckingham Road that will become redundant due to this development; and
- Replacement of any existing pavers/ tactile paving/ dropped kerbs that have been damaged around the site due to this development

has been submitted to and approved in writing by the local planning authority. 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:** To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

10 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, which will provide the following information:

- (i) The phases of the Proposed Development including the forecasted completion date(s);
- (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to commence development until such consent has been obtained;
- (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how complaints will be dealt with reviewed and recorded (including details of any Considerate Contractor or similar scheme);
- (iv) 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;
- (v) A plan showing construction traffic routes.
- (vi) A prior working agreement through section 61 of the Control of Pollution Act 1974 will be required. The City Council will set hours, and conditions necessary for the build to protect local residents. This has regard to best practicable means as defined in section 72 of the Control of Pollution Act 1974 and the British Standard 5228:2009, Parts 1 and 2.

Once the CEMP is approved the developer shall implement the commitments set out in the CEMP during the construction period.

**Reason:** As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

11 Ground investigation to identify and remedy potential land contamination is required, as recommended in the submitted Land Quality Study (April 2016). This should be carried out after demolition and before the construction phase and if any 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, and obtained written approval from the Local Planning Authority for, a method statement to identify, risk assess and address the unidentified contaminants.

**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.



12 No development above ground floor slab level shall take place until full details of all new windows and their reveals, cills and central meeting rails including 1:20 scale elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be 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 and CP15 of the City Plan Part One.

13 No development above ground floor slab level shall take place until full details of the roof eaves and integrated balconies to the new building at number 80; and the railings to the front of numbers 76-79; including detailed, scaled elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be 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 and CP15 of the City Plan Part One.

14 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, stone, tiling and painted render (being a good quality traditional wet-render with smooth finish paint)
- 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) Samples 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 CP15 of the City Plan Part One.

15 No development or other operations shall commence on site in connection with the development hereby approved, until a detailed Construction Specification/Method Statement has been submitted to and approved in writing by the Local Planning Authority. This shall provide for the long-term retention of the trees. No development or other operations shall take place except in complete accordance with the approved Construction Specification/Method Statement.

**Reason:** As this matter is fundamental to ensuring the development of the site is controlled 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 City Plan Part One.

- 16 Prior to the commencement of works on the development hereby permitted, details of the proposed sound insulation scheme to be implemented between the development and the adjoining premises and/or between the residential accommodation and any residential or non-residential uses shall be submitted to and approved by the Local Planning Authority. The Building Regulations Part E assessment is to take account of the electrical substation and the internal noise environment generally. The Party Walls/Floors between the ground floor units and the first floor residential units should be designed to achieve a sound insulation value of 5dB better than Approved Document E performance standard, for airborne and structural sound insulation for floors of purpose built dwelling-houses and flats. Details should include airborne and/or impact sound insulation. The developer shall certify to the local planning authority that the noise mitigation measures agreed have been installed. The approved scheme is to be completed prior to occupation of the development and shall be permanently maintained thereafter.  
**Reason:** to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.
- 17 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.
- 18 Prior to first occupation of the development hereby permitted a scheme to enhance the nature conservation interest of the site shall be 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 City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 19 None of the new build 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 City Plan Part One.
- 20 Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities and their access 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.

- 21 None of the new build 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 City Plan Part One.

- 22 At least two of the new build units hereby approved 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 new build 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.

**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.

- 23 Prior to first occupation of the residential units, the use-class D1 community unit shown on the approved plans shall be made available for use and retained as such thereafter.

**Reason:** To ensure the satisfactory provision of space for community use on site and to ensure the development complies with policy HO20 of the Brighton & Hove Local Plan.

- 24 The development hereby permitted shall not be occupied until a scheme of Travel Plan measures to promote sustainable transport to and from the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme should include but not be limited to the following measures:

- Details of pedestrian and cycle routes in the local area;
- Public transport timetable/maps;
- 2 years membership to City Car Club; and
- Bus 12 month season ticket for Brighton & Hove buses.

**Reason:** to promote sustainable modes and transport and mitigate the impact of the development on the surrounding road network and parking provision, in compliance with Brighton and Hove Local Plan Policy TR4.

- 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 policy TR18 of the Brighton & Hove Local Plan and SPG4 guidance.

- 26 Prior to first occupation of the development hereby permitted, double glazing shall be installed throughout the new and converted buildings providing a minimum laboratory tested sound insulation performance of  $R_w$  31dB +Ctr 27dB to provide a comfortable noise environment within the buildings.

**Reason:** to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.

- 27 Prior to first occupation of the development hereby permitted, the removal of asbestos containing materials is to be carried out in accordance with the report provided by Dorton Demolition and Excavation Ltd C5019 unless otherwise agreed in writing by the Local Planning Authority.

**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.

- 28 Prior to first occupation of the development hereby permitted, the maximum permissible noise level from the air source heat pumps must be adhered to and the following mitigation measures are to be employed as per Anderson Acoustic report revised August 2016 (2852\_002R\_3-0\_RNM):

- In-duct intake and exhaust silencers fitted to air source pumps;
- Plant room, light well and car park reflecting walls and ceilings to be covered with absorptive material such as 12mm thick Sonaspray fc acoustic plaster;
- Strategic duct termination away from sensitive windows;
- Acoustic louvres to air source heat pump intakes.

**Reason:** to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and 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 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,
3. The Highways Authority advises that the following details relating to cycle storage should be implemented to comply with best practice:

- Individual cycle stores for numbers 76-79 Buckingham Road;
- Relocation of the Sheffield type stands to near the Community Space;
- A security system e.g. key or fob for the basement bike store for residents of the flats and visitors to the community space

## **2 SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site is 0.13 hectares in area and situated on a corner site bounded by roads on three sides: Buckingham Road to the west, Upper Gloucester Road to the south, and Buckingham Street to the east. It is located within the West Hill Conservation Area.
- 2.2 The site currently comprises two connected buildings (nos. 76-79 and no.80). Nos 76-79 comprises four terraced former Victorian townhouses which were converted to form a single building which was most recently used as two residential flats (1 x 2 bed and 1 x 3 bed) at lower ground level and a Mental Health Recovery Centre on the upper floors. The building had been heavily modified, internally and externally to enable this use. No. 80 is a 1970s five storey building which was most recently occupied by Brighton & Hove Council Adult Social Services.
- 2.3 The surrounding area is characterized by primarily residential buildings of two to four storeys, set within terraces or groups of similarly detailed buildings. The use of pale coloured render is ubiquitous and gives a strong sense of place and cohesion. Upper Gloucester Road to the south slopes steeply down from west to east connecting Buckingham Road and Queen's Road. There is more variation in scale and design of building along the street (relative to neighbouring streets) and also a greater variation in uses. Corner buildings in particular tend to be in commercial/pub use with entrances set on the junction. There are long views east and west along the road. Those to the east open out to development on the other side of the valley.
- 2.4 Buckingham Road retains much historic integrity; the only modern development along its length appears to be number 80. Its scale and massing in particular are dominant in views along Upper Gloucester Road whilst its roof form is overly-prominent in the design and streetscene. Number 80 Buckingham Road replaced the former Brighton Grammar School (later Maternity Hospital). The building is considered to be of little heritage or architectural merit, being identified as visually harmful in the West Hill Conservation Area Appraisal.
- 2.5 Full planning permission and consent for the demolition of an unlisted building in a Conservation Area is sought for a residential-led mixed use redevelopment. The proposal will create four dwelling houses within 76-79 Buckingham Road by converting the existing buildings and a new 5-storey building to replace number 80 Buckingham Road to provide 20 flats with a community use unit at the corner of Upper Gloucester Road and Buckingham Street (D1 use class). The proposed unit sizes are 6 x 1 bed, 13 x 2 bed, and 5 x 3+ bed homes. Because two residential flats are found on site as existing, the net number of units proposed is 22. Associated car parking, cycle parking, landscaping and servicing provision is also provided. Minor amendments to the design were

received during the course of the application on the advice of the Heritage Officer comprising of: changing many of the proposed windows from casement hung to sliding sash hung; amendments to the proposed roof-glazing and removal of the roof level of the proposed connecting structure between numbers 79 and 80 Buckingham Road.

### **3 RELEVANT HISTORY**

- 3.1 Numbers 76-79 Buckingham Road were constructed as residential homes. Prior to 1990 much of the floor space in these units had been converted to a hostel / sheltered accommodation for disabled tenants.
- 3.2 Planning permission was approved in July 1990 for the change of use of the ground, first and second floors from hostel / sheltered accommodation to Mental Health Resource Centre. The lower ground floors were retained as residential use (1 x 2 bed and 1 x 3 bed flats) being 76A and 76B Buckingham Road.
- 3.3 Number 80 Buckingham Road was constructed around 1975 replacing the Maternity Hospital. Number 80 was most recently occupied by Brighton & Hove Council Adult Social Services and vacated in March 2015.
- 3.4 All of the buildings are considered to be within a Class D1 use (Non-Residential Institution) except the lower ground floors of 76-79 Buckingham Road which remain in C3 use. All of the buildings are currently vacant.

### **4 REPRESENTATIONS**

- 4.1 Seven (7) letters have been received from 4 & 25 Buckingham Street; 67a Upper Gloucester Road (The Edinburgh Pub); 11, 38 & Top Floor Flat 74 Buckingham Road & 'Chatham Place' objecting to the proposed development for the following reasons:
  - Design: out of character with the area, too high, detrimental to the conservation area, bay windows should be included, more plot coverage than existing buildings;
  - Neighbouring amenity: impact on sunlight to basement flats opposite, disturbance from additional residential units in the area;
  - Traffic: entrance on the roundabout will cause congestion;
  - Parking: limited capacity in the zone;
  - Loss of the health centre: site would be better used for accommodation for homeless people;
  - Community use: unusable amount of space, no toilets or kitchen;
  - Impact on neighbouring Public House: new residential units have a negative impact on existing entertainment businesses;
  - Affordable housing: failure to provide on-site.

### **5 CONSULTATIONS**

- 5.1 **Police:** No objection

The principles of Secured by Design should be adhered to.

**5.2 Sustainability Officer: No objection**

The scheme has responded well to CP8 in relation to energy and water efficiency. As a mixed use scheme which combines both new build and refurbishment/change of use to create new dwellings, a consistently high energy performance standard is expected to be achieved across the scheme.

**5.3 An Energy Strategy has been submitted which provides details of the planned energy solutions for the site.**

**5.4** The New build element of the development (80 Buckingham Road) will target: the minimum water and energy efficiency requirements set out in City Plan Policy CP8. It is estimated in the submitted Energy Strategy that photovoltaic array generating approximately 11,915 kWh electricity per annum will be required to meet the energy efficiency standard. This will be refined during design development, but the anticipated solution includes: use of renewable technologies: air source heat pumps, and a 14kWp solar array (107m<sup>2</sup>) in the form of integrated photovoltaic tiles that mimic slate to the rear of the townhouses. Heating will be provided through a communal system fed by air source heat pumps and gas boilers. Fabric/thermal performance will exceed Building Regulations minimum standards. Mechanical Ventilation with Heat Recovery (MVHR) will be incorporated into the scheme. The non-residential element is targeting an EPC rating of 'A' which is welcomed. This area covers 63.5m<sup>2</sup> and therefore falls below the trigger point for use of BREEAM standards under policy CP8. An Energy Performance Certificate 'A' rating is very much welcomed for this element of the scheme.

**5.5** Other aspects of policy CP8 have been addressed through the proposed: enhanced air tightness designed into scheme; intention to carry out feasibility study for rainwater harvesting and/or grey water recycling; timber from certified sustainable sources.

**5.6** The site is not in an area that has been identified as having potential for a heat network. Whilst communal heating is proposed, it is not recommended that a condition be applied to secure potential future connection to a heat network. The scheme could be improved by addressing the following which are currently not proposed for the scheme: use of green roofs or green walls; provision of a composting facility; biodiversity enhancements.

**5.7 County Archaeologist: No objection**

The site is not within an Archaeological Notification Area and is not listed but is within the West Hill Conservation Area. 76-79 are not listed but are mid-Victorian in date and contribute to the character of the Conservation Area. Information about the heritage values of the buildings is set out in the 'Heritage Statement' by RPS CGMS.

**5.8** It is not considered that the proposals are likely to have a significant archaeological impact and have no further comments to make in this case.

5.9 **Heritage Officer:** No objection / Comment

5.10 76-79 Buckingham Road

The proposed improvements to the front elevation of 76-79 Buckingham Road are welcomed as enhancements to the conservation area. The detailing should exactly replicate surviving historic detailing; conditions should be applied to ensure this and to confirm the exact details/location of reinstated elements.

5.11 The inserted window at second floor level at 79 Buckingham Road should be removed as part of the proposal, as indicated within the Design & Access Statement but still shown on the proposed elevation. The railings to the LHS of 79 Buckingham Road should also match the remainder of the existing and proposed railings. This should exactly match those surviving to 76 and 77. It should be ensured that red pavements are retained and/or reinstated to the front basement walls of all properties. Slate would be an inappropriate material for use to the front of the properties. The cast iron rainwater goods would appropriately be painted to match the elevation, rather than painted black. This should be amended.

5.12 To the rear, it is proposed to alter the existing fenestration. The existing fenestration is much altered and lacks uniformity. Introduction of a greater sense of uniformity to the elevations would be appropriate. The level of uniformity introduced by the proposals is however limited given the number of styles and sizes of windows proposed. It would be more appropriate to introduce windows of greater regularity and traditional proportions. It is however noted that this elevation will not be visible in the streetscene and thus the impact of these alterations to the conservation area are limited.

5.13 It is understood that it is proposed to also reinstate the interiors of these buildings, including cornices etc., based on surviving evidence. It should be noted that these buildings are not listed, and therefore alterations to their interiors are not therefore controlled as part of the planning system. Future alterations to the interior could be made without planning permission. Whilst reinstatement of the interiors is appropriate in heritage terms, it is unlikely to receive weight as a heritage benefit in planning terms. No evidence of the historic layout nor details have been provided, and it is therefore also unclear whether a previous plan form or details are being exactly matched; parts of the plan form do not appear to be traditional.

5.14 80 Buckingham Road

The existing 80 Buckingham Road is of no architectural or historic interest and there is no objection to its demolition, subject to a suitably-designed replacement. The principle of a building of modern design in this location is accepted, provided it remains sympathetic to the character of the conservation area. The scale and massing of the proposal has been reduced since pre-application. It nevertheless constitutes a large building within the conservation area, set in a prominent location. There is a disparity in scale of building to either side of Upper Gloucester Road which has the potential for the proposed development to appear overbearing. The scale of development also means that the proposed will be particularly prominent in views up Upper Gloucester Road. Both of these issues could be reduced through reducing the scale of the



development, or by setting back the building line to Upper Gloucester Road. Contrary to that stated in the Heritage Statement (p26), a set back building line would reinstate the historic arrangement, as the previous school building was set back from the pavement edge. It is however acknowledged that the existing building is of a similar scale and massing to that proposed.

- 5.15 The building (particularly height, bulk, eaves and roof form) have the potential to be overbearing to the historic terraces on Buckingham Road and Buckingham Street. To mitigate for this, a recessed portion has been introduced. This allows a degree of separation to remain, reducing the dominance of the new build in relation to its neighbours. The amount by which this portion is recessed is minimal however, and its effectiveness is further undermined due to its height (eaves matching that of the main building) and the inclusion of a roof. It also extends much further to the rear than the terraced buildings on Buckingham Road (although it is acknowledged this is not visible from the streetscene). The eaves height of the recessed elements should be set below that of the main building. The proposed roof should be omitted; a flat roof to this section would be appropriate. Alteration to this roof will require amendment to the neighbouring portion of the main roof.
- 5.16 The building has been designed to reflect and respond to the rhythm and architectural design of the surrounding buildings and streets. The use of render with rustication and string courses is appropriate. A sample of the render and all other materials would be required by condition. The sense of solidity to the residential entrance and the less solid shopfront-style entrance with corner doorway is appropriate for the community use; both reflecting entrances on their respective streets. Large scale details and sections will be required for all architectural elements by condition. The roof form is a particularly striking element of the design. Its success will be dependent on very careful detailing and choice of materials. The windows at this level have been amended to a more traditional shape, but do not align with windows below nor to the design of the elevation as a whole. Given the modern design of the roof, a more overtly modern design should be applied to the windows. The integrated balconies are bounded by a section of solid roof as well as railings in order to minimize their impact on the streetscene. Further large scale details should be provided on this element to be able to consider the impact of these features. It is considered that a greater degree of solidity will be required (at places it seems that only 500mm of solid roof is proposed).
- 5.17 Further detail is required of the eaves detail, which appears somewhat bulky. The proposed windows incorporating small top hung casements are out of keeping with the area and with the proposed architectural style. This element needs to be reconsidered. Substantial reveals will be required to the windows in order to achieve an appropriate level of relief to the elevation, and to be in keeping with the character of the conservation area.
- 5.18 Railings and rendered piers reflecting (but not matching) those to 76-79 Buckingham Road are proposed. This provides a boundary between public and private space which is characteristic of the conservation area, except that there will be no basement lightwell behind the railings. It would be appropriate for

some soft landscaping to be introduced behind the railings so that this difference is not so clearly evident in the streetscene. There is the potential for this area to be used for ad hoc storage, which should be avoided. The proposed material to the front forecourted area should be confirmed. Inclusion of window openings at ground floor level on the Buckingham Street elevation is appropriate for the design and sense of proportion of the elevation. However the bars across the windows do not contribute to the character of the street and require further consideration.

- 5.19 **Conservation Advisory Group:** No objection  
The Group recommend APPROVAL of the application and has confidence that the Conservation Officers will check the detail.
- 5.20 **City Clean:** No objection  
Cityclean have no objections to the proposed developments so long as the standard bin collection guidelines are followed.
- 5.21 **Planning Policy:** Comment  
Loss of Community Facilities  
Policy HO20 of Brighton & Hove Local Plan seeks to retain community facilities. However it recognises that a site in community use may no longer be needed and specifies four exceptions that may apply which are as follows:
- a) The community use is incorporated, or replaced within a new development; or
  - b) The community use is relocated to a location which improves its accessibility to its users; or
  - c) Existing nearby facilities are to be improved to accommodate the loss; or
  - d) It can be demonstrated that the site is not needed, not only for its existing use but also for other types of community use.
- 5.22 Where an exception applies a priority is attached to residential and mixed use schemes which may provide 'live work' and/or starter business units to meet identified local needs.
- 5.23 Apart from the 2 flats the application site's lawful use is considered to be community use. Before falling vacant numbers 76-79 Buckingham Road accommodated the Southdown Mental Health Recovery Centre and no. 80 Buckingham Road accommodated adult / day centre services.
- 5.24 76-79 Buckingham Road:  
The Southdown Mental Health Recovery Centre, which used to occupy 76-79 Buckingham Road, was relocated to a new facility in Frederick Place in November 2014. Its relocation provided the use within the same catchment area and with better access to Brighton Station and bus routes.
- 5.25 The relocated facility provides a similar service to that provided at the application site, even though the floorspace occupied is less, and continues to run in conjunction with Preston Park Recovery Centre. The planning statement indicates the same level of support and staffing has been maintained and the new facility has delivered a number of benefits. It would appear the aim of the

policy to ensure the community use remains available to its users on similar terms equal to, if not better than, those previously provided has been met in respect of 76-79 Buckingham Road. Especially when considered against the benefits to the conservation area offered from the proposed conversion of the premises back to residential and the removal of unsympathetic features. Based on the information submitted it is therefore considered the proposal in respect of 76-79 meets policy HO20.

5.26 80 Buckingham Road:

It is indicated that no.80 Buckingham Road has been vacant since March 2015 and is no longer needed for its former adult/Day Services use. The planning statement indicates changes in service delivery have resulted in the reduction of central services in favour of providing individual support plans to service users and providing a more personalised operation using Personal Budgets. Central services will continue to operate out of two other existing bases within the Brighton & Hove area. However there is no information on their location or whether they have been improved in order to accommodate the loss of no.80 Buckingham Road. No supporting letter from the previous occupier has been submitted to verify the extent to which the former services and facilities have been 'replaced' to help demonstrate that policy HO20 criteria (b) or (c) have been met.

5.27 It therefore appears that due to budgetary and service changes the 'existing use' is no longer needed. The day services do not appear to have been replaced or relocated within another building in accordance with criteria (a)-(c) in policy HO20. Criterion (d) of policy HO20 appears to be the most applicable which states "Exceptions may apply when it can be demonstrated that the site is not needed, not only for its existing use but also other types of community use". Policy HO20(d) relates to the 'site' and therefore seeks to secure the full floorspace. Sales details for the premises state the existing D1 floorspace provided at no. 80 is 1,043.2sqm (11,228sqft). The proposal reduces this to 63.5sqm and whilst it will provide a community use it will not meet criterion (a) because it will not provide the former day centre/adult services use. No information has been submitted to indicate the space proposed will meet the requirements of a particular future occupant. It is therefore unclear how the D1 space will be managed and maintained for example will it be included as a general area for all occupants and included within the management of the block or left vacant until let to a D1 occupant. Without this information the merits of the future use cannot be fully assessed.

5.28 There is a lack of information to demonstrate the proposal complies with policy HO20 in relation to no.80 Buckingham Road.

5.29 Affordable housing

Policy CP20 requires the provision of affordable housing and seeks 40% on-site affordable housing provision on sites of 15 or more net dwellings. The policy advises the target may be applied flexibly where it is considered to be justified. The policy indicates the following matters will be taken into consideration: local needs; accessibility of the site to local services, facilities and public transport;

viability; the extent affordable housing would prejudice other planning objectives; and, the need to achieve a successful housing development.

*NB: the applicant agreed to provide a policy compliant level of affordable housing after the Planning Policy Team consultation response was submitted objecting to this element of the scheme.*

5.30 Open Space

In accordance with policies CP16 and CP17 the proposal should provide for the generated demand in open space. This requirement is separate to the on-site provision of private amenity and landscaping space which are covered by policies HO5, QD15 and QD16. Based on the proposed residential mix and a financial contribution of £67,928 would be required to address the generated demand for open space and indoor sport.

5.31 Other matters:

The proposed density is indicated to be 185 unit/ha which does not conflict with policy CP14 subject to it complying with the six specified criteria. Criterion CP14. emphasises the need for high density developments to accord with policies CP10, CP16 and CP17.

5.32 The application indicates every residential unit will have access to private amenity space ranging in size from 4sqm to 17.5sqm which helps to satisfy the requirements of policy HO5.

5.33 Accessible housing and lifetime homes are sought by policy HO13 and it is noted the proposal includes two wheelchair accessible homes which are located on the third and fourth floors with lift access. This is welcomed and consideration should be given to accessibility in the event of lift failure.

5.34 Regard to how the proposal accords with transport and design policies, including amenity, and also policy CP7 will be subject to the comments from other consultees and on-site considerations.

5.35 Waste Management

Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction demolition and excavation.

Paragraph 49 of the National Planning Practice Guidance provides guidance on what could be covered in order to meet the requirements of the policy. A fully completed SWMP with sufficient information to demonstrate compliance with Policy WMP3d should be required, this could be by condition.

5.36 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.

5.37 **Environmental Health:** No objection / Comment

The initial Environmental Health consultation response raised several queries including the submitted Acoustic Report (dated May 2016) which the applicant

sought to address during the application process. The applicant submitted further and more detailed evidence and reports during the lifetime of the application, including an amended Acoustic Report (dated August 2016), and the Environmental Health Officer provided a final response as follows:

- 5.38 In relation to the relative internal arrangement of the flats, 'like for like' rooms are best positioned adjacent to and above one another so as reduce the potential for later noise problems.
- 5.39 The Anderson Acoustic report revised August 2016 (2852\_002R\_3-0\_RNM) was considered alongside the acoustician's comments to specific queries and approval is now recommended subject to conditions.
- 5.40 The proposal is in a densely populated area and there is a need for effective implementation of full construction environment management plan.
- 5.41 **County Ecologist:** No objection  
The majority of the site comprises hard standing and buildings and is of minimal ecological value. It is therefore considered unlikely that there will be any significant impacts on biodiversity.
- 5.42 In summary, the proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for biodiversity enhancements that will help the Council address its duties and responsibilities under the NERC Act and NPPF.
- 5.43 **Education Officer:** No objection  
We seek contributions where there is a demonstrable need for additional pupils. In this part of the city there is a demonstrable need in all phases of education at St Mary Magdalene RC Primary, St Pauls C E Primary, Middle Street Primary St Bartholomew's and Carlton Hill Primary. These schools offer a total of 1050 permanent places and there are currently 1052 pupils on roll. In terms of secondary schools this development would fall into the catchment area of Hove Park and Blatchington Mill and the funding would be used at either or both of these schools. A contribution of £62,387.80 is therefore sought in line with the Council's contributions policy.
- 5.44 **Sustainable Transport:** No objection  
Recommended approval as the Highway Authority has no objections to this application subject to the inclusion of the necessary conditions and Section 106 requirements.
- 5.45 Pedestrian & Mobility Impaired Access  
The Highway Authority does not wish to object to the access overall on the site as:
- Pedestrian access to the block of flats is satisfactory with lift access to each floor and a step-free main entrance.
  - The community room entrance has step-free access.

- The access to the proposed houses is not step-free however their design and appearance reflects that of neighbouring houses along the street.
- The lower ground floor car park can be accessed via the lift or stairs for residents.
- Due to the layout and access provision set out above there is likely to be minimal pedestrian movements accessing the ramp to the car park and it's design is acceptable.

5.46 Cycle parking

The City Council's Parking Standards SPD14 requires the Community space to have a minimum of 2 spaces, the 20 apartments to have a minimum of 1 cycle parking space per dwelling and 1 per 3 dwellings for visitors or part thereof (26) and the proposed 4 houses to provide a secure store each (1-2 spaces per store).

5.47 The applicant indicates 42 spaces (21 josta stands) within a store at the basement level of the flats/ community space for residents and visitors. This is above the required amount in total and appears to be acceptable in design and spacing.

5.48 Disabled Parking

For this size and type of development Parking standards SPD14 requires a minimum of 5-6 spaces compliant with DfT guidance - Traffic Advisory Leaflet (TAL) 05/95.

5.49 Amount

The applicant is less than the required amount proposing only 2 disabled spaces on site in the lower ground floor that is accessed via ramp. It is however noted that there are 3 existing disabled bays on Buckingham Road adjacent to the site and there is opportunity for Blue Badge holder visitors to the site by car to park on double yellow lines for up to 3 hours if safe to do so in the vicinity. It is also noted that there are only two wheelchair assessable units in the development. This is acknowledged and the amount both internally and externally is deemed acceptable.

5.50 Bus Parking

Parking Standards SPD14 requires Community Centres to have a Loading area/ setting down bay suitable for bus use. This is proposed to be in the car park entrance and would be acceptable.

5.51 S278/ Highway Works

The Highway Authority would also seek off-site works to be implemented with amended drawings submitted via a Section 278 Agreement which will be secured by condition.

5.52 Car Parking/ Highway Impact

The applicant is proposing 6 standard sized spaces in the undercroft car parking area. These are acceptable and the swept path analysis provided by the applicant demonstrates how they would work in practice.

- 5.53 Based on the 2011 car ownership census data this development is forecast to have on average 10 vehicles associated with the residential element. The applicant is providing 6 or 5 standard spaces (if one is lost to accommodate guidance compliant disabled parking spaces) on site. This amount is below the likely amount and therefore there is likely to be overspill parking on the highway of 4 or 5 vehicles approximately.
- 5.54 It is however noted that the existing on-street 2 Doctors' bays and 3 Ambulance bays would become redundant due to this development and it is likely that a minimum of 6 regular car parking spaces could be achieved by their removal. This would make up for the short fall. The Highway Authority would also in addition look for other measures to mitigate any overspill parking that may occur by requesting that the applicant provides 2 years membership for each residential unit to the City's Car club (see Travel Plan Measures below). There are existing car club bays on Buckingham Street, Leopold Road and Guildford Street, in close proximity to the site. The provision of 2 years membership for each residential unit should be secured via a S106 agreement. With these measures, and the additional on-street car parking spaces the Highway Authority does not deem the proposed level of car parking on site to be a reason for refusal. It is also noted that the City Council's parking standards SPD14 are a maximum and therefore the amount is within the standards.
- 5.55 Travel Plan Measures  
In order to encourage lower car ownership and to promote sustainable forms of travel to and from the site the Highway Authority would look also for the applicant to provide a Travel Information Pack to first residents of the residential units. This Travel Pack should be secured through a S106 agreement and should include the following:
- Details of pedestrian and cycle routes in the local area;
  - Public transport timetable/maps;
  - 2 years membership to City Car Club; and
  - Bus 12 month season ticket for Brighton & Hove buses.
- 5.56 These measures would help to mitigate the likelihood of a localised parking stress occurring in the streets around the development. It is noted that the applicant is proposing a travel information pack in the transport assessment that would provide information only. The Highway Authority would want to see the above car club membership and bus season tickets included in their proposal.
- 5.57 Trip Generation/ S106  
The proposed development will generate an increase in the level of trips to and from the site. In order to ensure that the development provides for the additional trips it generates and that there is adequate pedestrian provision for users of all abilities, the Highway Authority seeks a sustainable transport contribution of £14,000 in accordance with the council's standard contributions formula.
- 5.58 **City Regeneration:** No objection

The provision 22 dwellings (net) is welcomed and will contribute towards the city's challenging targets for new homes.

- 5.59 An Employment and Training Strategy will be required in addition to developer contributions of £7,400 towards the council's Local Employment Scheme, as referenced in the council's Developer Contributions Technical Guidance. 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.

## **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
- CP1 Housing delivery
- CP2 Sustainable economic development
- CP3 Employment land
- CP4 Retail provision
- CP5 Culture and tourism
- CP6 Visitor accommodation
- 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  
CP21 Student housing and Housing in Multiple Occupation

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  
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  
HO13 Accessible housing and lifetime homes  
HO20 Retention of community facilities

HE3 Development affecting the setting of a listed building  
HE6 Development within or affecting the setting of conservation areas  
HE8 Demolition in conservation area  
HE10 Buildings of local interest  
HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD06 Trees & Development Sites  
SPD09 Architectural Features  
SPD11 Nature Conservation & Development  
SPD12 Design Guide for Extensions and Alterations  
SPD14 Parking Standards

## **8 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application are the principle of development, including the loss of the community use floorspace; the design of the proposed development and its impact on the character and appearance of the conservation area; the provision of affordable housing to ensure mixed, sustainable communities; the standard of residential accommodation and private amenity space for future occupants, any impacts on neighbouring amenity and transport impacts.

- 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 **Community Use / Former Mental Health Use**  
Policy HO20 of Brighton & Hove Local Plan seeks to retain community facilities. However it recognises that a site in community use may no longer be needed and specifies four exceptions that may apply which are as follows:
- a) The community use is incorporated, or replaced within a new development; or
  - b) The community use is relocated to a location which improves its accessibility to its users; or
  - c) Existing nearby facilities are to be improved to accommodate the loss; or
  - d) It can be demonstrated that the site is not needed, not only for its existing use but also for other types of community use.
- 8.4 The former mental health facility was relocated to a new Mental Health Recovery Centre at 42 Frederick Place in November 2014 which continues to be operated by Southdown Recovery Services. This new facility is within the same catchment area and with better access to Brighton Station and bus routes.
- 8.5 The applicant submits that the former accommodation at Buckingham Road was underutilised and constrained by the cellular nature of the accommodation split across a number of floors and did not meet the needs of its users. The existing facility has therefore been re-provided in an accessible central location providing new, improved accommodation across a single floor which meets the needs of the services being provided.
- 8.6 The Planning Policy Team consultation response outlines that the relocated facility at Frederick Place provides a similar service to that provided at the application site, even though the floorspace occupied is less, and continues to run in conjunction with Preston Park Recovery Centre. The aim of the policy to ensure the community use remains available to its users on similar terms equal to, if not better than, those previously provided has been met in respect of 76-79 Buckingham Road.
- 8.7 It is indicated that no.80 Buckingham Road has been vacant since March 2015 and is no longer needed for its former adult/Day Services use. The applicant's Planning Statement indicates changes in service delivery have resulted in the reduction of central services in favour of providing individual support plans to service users and providing a more personalised operation using Personal Budgets. Central services will continue to operate out of two other existing bases within the Brighton & Hove area. However there is no information on

their location or whether they have been improved in order to accommodate the loss of no.80 Buckingham Road.

8.8 Following the Planning Policy Team consultation response which raised some concerns about the level of detail justifying the loss of the community use at number 80, the applicant submitted further evidence in a Planning Statement Addendum. This included marketing information provided by the Council during the disposal of the site in 2014: the Council instructed Cushman and Wakefield to market the site and investigate potential uses, a wide ranging approach to marketing the site was undertaken, which constituted the following:

- Direct marketing to active investors, developers and operators in the local area using the Cushman and Wakefield database with additional input from the Bright & Hove City Council team commenced 1 March 2015;
- Advertising in the national property publication, the Estates Gazette on 7 March 2015;
- Advertising in the local press, the Argus on 24 March 2015;
- Advertising on the Cushman & Wakefield website; and
- Placement on commercial property advertising websites such as Novaloca, EGi, and Propertylink.

8.9 Over the disposal period between March 2015 and October 2015 Cushman and Wakefield received bidding interests and enquiries regarding residential redevelopment. No interests or enquiries were received from community use operators or providers over the length of the disposal exercise.

8.10 The application includes the provision of 63.5sqm of D1 community space with a 'shop window' frontage onto the junction of Buckingham Street and Upper Gloucester Road. Notwithstanding the substantial reduction in floor area for community use at 80 Buckingham Road it is considered that sufficient marketing for potential uses, including community use, has been undertaken (unsuccessfully) and that the provision of a smaller amount of floor space to continue some community use on site is acceptable and sufficient to comply with criteria (a) and (d) of Policy HO20. Representation letters have raised concerns about the utility of the proposed community use unit; the applicant has confirmed that a local mental health counsellors and psychotherapists practice, The Withdean Practice, has expressed interest in occupying the unit at Buckingham Road. They are currently located on Withdean Road, Preston Park, and they are looking to expand their practice to new locations. This would appear to demonstrate that the space could be utilised for its intended use and the retention of this space will be secured by condition.

**8.11 Affordable Housing:**

The City Plan Part 1 Policy CP20 requires the provision of affordable housing at 40% on-site for schemes of 15 or more net dwellings, including converted buildings. For a scheme of 22 net units this would be 8.8 affordable units; the City Council would therefore require 9 affordable units on-site to ensure the 40% requirement is met.

- 8.12 The applicant's original Planning Statement detailed a justification for excluding affordable housing from the scheme on the basis of difficulty providing mixed tenures (open market housing and affordable housing) within a single building; the 'Vacant Building Credit'; and being in conflict with the heritage objectives of restoring 76-79 Buckingham Road. This was contrary to the Council's Affordable Housing Guidance Note (September 2016) which justifies a case for the provision of affordable housing outweighing the Vacant Building Credit as a material consideration. It is also considered that the inclusion of affordable housing within number 76-79 Buckingham Road is possible without compromising the historic restoration as these buildings are not listed and the restoration of their interior would not outweigh the policy objective of providing affordable housing to meet an acute need. The Heritage Officer consultation response confirmed that whilst the reinstatement of the interiors of numbers 76-79 is appropriate in heritage terms, it is unlikely to receive weight as a heritage benefit against other planning objectives because the properties are not listed.
- 8.13 The applicant confirmed in a Planning Statement Addendum (23 September 2016) that the scheme would now provide a policy-compliant level of affordable housing:
- 8.14 *"I can confirm that we are now proposing to deliver a policy compliant scheme in relation to affordable housing for the above development, delivering on-site provision of 40% of the net increase in units (ie. 9 affordable units based on the proposed net total increase of 22 residential units). We would be happy to agree the tenure split and mix of the affordable units as part of the detailed drafting of the S106 Agreement immediately following the committee meeting on the 12th October.*
- 8.15 *Whilst our Planning Statement submitted with the application originally identified potential issues in terms of providing affordable housing on site due to the constraints of providing a second core within the new building on No.80, together with the heritage benefits of converting No. 76-79, we now believe that an acceptable position can be agreed on-site through agreement with an RSL for the provision of affordable housing within the current scheme for No. 80.*
- 8.16 *Given that we have now agreed to take forward the provision of affordable housing on site as set out above to meet the requirements of Policy CP20, we withdraw our Affordable Housing Note (received 20 June 2016)."*
- 8.17 It is therefore considered that City Plan Part 1 Policy CP20 has been met, subject to securing the correct level of affordable housing through a Section 106 Legal Agreement. Should members resolve to grant permission for this scheme and the legal agreement is not completed in a timely fashion, the application will be returned to Committee with an opportunity to refuse permission.
- 8.18 **Design and Appearance:**  
Demolition of the existing building (80 Buckingham Road) in the Conservation Area complies with Local Plan Policy HE8 as is it visually harmful to the special interest of the Conservation Area and its demolition is supported on heritage

grounds. Policy HE8 also requires the submission of acceptable detailed plans for a replacement building, which is satisfied by this current application.

- 8.19 The external amendments to the Victorian terrace of 76-79 Buckingham Road are largely restorative in removing some of the external changes made to accommodate the former D1 use such as access ramps. This is considered acceptable and is supported by the Heritage Officer as providing a positive improvement to the conservation area.
- 8.20 The proposed scheme density of 185 unit/ha is supported by policy CP14 (Housing Density) as an appropriate density for a very central and sustainable location within the City, appropriately 5 minutes walking distance from the train station and several bus routes plus many local amenities. It also respects the residential character of the area which is constituted of relatively high-density townhouses, many of which have been converted to flats.
- 8.21 The building proposed to replace number 80 Buckingham Road has been designed to reflect and respond to the rhythm and architectural design of the surrounding buildings and streets. The use of render, iron railings, canted balconies and similar storey-heights to reflect the materials and forms of neighbouring buildings is considered to successfully incorporate positive traditional elements into the modern design.
- 8.22 As viewed from Buckingham Road, the eaves and storey heights of the new building are equivalent (and slightly lower) than the adjoining terrace. The roof line is similar. Along Buckingham Street, the storey-heights are broadly similar to the adjoining terrace although the eaves and roof heights are taller but this must be considered in the context of the existing building which is harmfully disproportionate to its neighbours.
- 8.23 The building appropriately approaches the change in levels along Upper Gloucester Road by dividing the mass of the building into two substantive parts (with a subservient central element), falling in height from west to east. All sides of the building are arranged over four main storeys plus roof accommodation. A connecting structure is proposed to join the proposed building to the adjacent terraces along Buckingham Road and Buckingham Street; amended plans were received during the course of the application limiting this connection to three storeys on the advice of the Heritage Officer.
- 8.24 The western elevation respects the building line along Buckingham Road appropriately. The proposed southern elevation abuts the pavement of Upper Gloucester Road, forward of the existing building elevation which is set back due to an access ramp. It is acknowledged that the historic building line (prior to the existing building) may have abutted the highway more closely. The existing building is overbearing against this road and pavement including the siting of a dominant access steps and ramp. The proposed design includes visual relief and fenestration to the ground/lower-ground levels on this elevation to reduce its impact on the pedestrian environment and was supported by the Design Review Panel. The eastern elevation respects the building line of Buckingham Street

with the proposed balconies broadly in line with the canted bays of the existing terrace.

- 8.25 The roof form is a particularly striking contemporary 'mansard' structure with corner glazing elements and integrated balconies. The design of the roof form establishes a unique and modern identity for a new building which respects its traditional context well through its other design elements. This approach was supported by the Design Review Panel which praised its strong architectural merits. It is considered that the modern roof design ensures that the building as a whole is not viewed as a pastiche of a traditional style but is allowed to incorporate a strong architecture statement while respecting the rhythm and characteristics of the surrounding conservation area on its elevations. The integrated balconies are bounded by a section of solid roof as well as railings in order to minimize their impact on the streetscene.
- 8.26 The overwhelmingly characteristic material in the West Hill Conservation Area is white or light coloured render. A good quality traditional wet-render with smooth finish paint could be secured by condition. The fenestration along the west and east elevations, whilst modern in proportion across some elements, does reflect the spacing and repetition of the traditional terraces along Buckingham Road and Buckingham Street, respectively. Some sash-hung and casement windows are proposed; the materials and reveals of the windows could be secured by condition to ensure they are appropriate in this location.
- 8.27 The rear elevation of 76-79 Buckingham Road would be difficult to view from a public vantage point, but none-the-less has been proposed to be improved with the restoration of a more consistent fenestration layout.
- 8.28 The glazed ground floor corner unit accommodating the D1 use at the southeast corner is acceptable as it references the corner-access of the Public House opposite and clearly identifies the community use of the site.
- 8.29 **Standard of accommodation**  
The Council uses the Department for Communities and Local Government - Technical housing standards - nationally described space standards (March 2015) as a reference point for residential unit sizes. The accommodation schedule on page 18 of the Design and Access Statement appears to meet these standards.
- 8.30 The application indicates every residential unit will have access to private amenity space ranging in size from 4sqm to 17.5sqm which helps to satisfy the requirements of policy HO5 and would be commensurate to dwellings of this type in this very central location. Two wheelchair units are provided, in compliance with Policy HO13 (Accessible housing and lifetime homes), and will be secured by condition to ensure compliance with Building Regulations M4(3)(2b); the remained of the units will be conditions to comply with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings).
- 8.31 **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.

- 8.32 The use of the site as residential is unlikely to be more harmful or more intensive than the existing D1 / office use in terms of noise, activity, transportation movements or other disturbance. Furthermore, the substantial and imposing presence of the current building at number 80 Buckingham Road sets a significant precedent in terms of visual obtrusion from neighbouring properties.
- 8.33 Regarding impacts from overlooking or the loss or perceived loss of privacy, the introduction of balconies and roof terraces across all storeys could provide limited views between front-to-front aspects of the new building and properties in Buckingham Road and Buckingham Street which is acceptable across the width of a road given this is a normal relationship in a built-up area. There will be some views of the rear elevations of Buckingham Street from the rear windows of 76-79 Buckingham Road, but many of these windows are already existing. The 'rear' north elevation of the new building at number 80 contains only high-level windows.
- 8.34 The impacts of the new, taller building at Number 80 would be most significantly felt by the properties opposite on the east side of Buckingham Street and the west side of Buckingham Road. The heights of the existing and proposed buildings are as follows, although approximated to account for the sloping land levels and uneven façade of the existing building:
- 8.35 The existing building is approximately 12m tall to the eaves and 15.6m tall to the roof ridge as viewed from Buckingham Road; approximately 15.4m tall to the eaves and 18.2m tall to the roof ridge as viewed from Buckingham Street.
- 8.36 The proposed development is 13.2m tall to the eaves and 17.8m tall to the roof ridge as viewed from Buckingham Road; 14m tall to the eaves and 18m tall to the (nearest) roof ridge as viewed from Buckingham Street.
- 8.37 It should be noted that the roof of the proposed development slopes away from the eaves and so will not be as visually overbearing as the existing roof of number 80. It is unlikely these relatively small increases in height will be harmful enough to neighbouring amenity, in terms of loss of outlook or overbearing appearance, to warrant the refusal of this application.
- 8.38 The application documents include a Daylight and Sunlight Report (May 2016) which concludes:

*"...the majority of all buildings surrounding the development site will not experience any significant changes in daylight, and are fully BRE compliant. Whilst there are four buildings that experience changes in light that exceed those permitted by the BRE, the retained levels are commensurate with similar*

*buildings in their current situation. As such, this scheme is considered to retain good levels of daylight and sunlight amenity to neighbouring residential buildings, maintaining existing living standards. The proposed new residential dwellings will all meet the required standards and ensure appropriate living standards for residents".*

- 8.39 A representation was received, objecting on the basis of loss of sunlight/daylight to a neighbouring lower ground floor apartment. The applicant clarified in a Planning Statement Addendum that the Sunlight Report assessed the impact of the proposals on all windows to that property specifically and found that it would be BRE compliant for all daylight and sunlight tests.
- 8.40 The landlord of the Edinburgh Public House on the corner of Upper Gloucester Road and Buckingham Street has raised a concern that the new residential development will have a harmful effect on their business by virtue of sensitive residential development being potentially prejudicial to the ongoing operation of a business which generates a degree of noise and disturbance. The protection of existing business is a fundamental objective of planning policy and the introduction of new neighbouring uses should not be permitted if it could compromise the ongoing operation of business through potential noise complaints etc. This has been carefully considered: given the Edinburgh Pub has traded successfully for many years in close proximity to residential development, including adjoining neighbours, and the proposed development is located across a road it is considered that the existing use of a public house would not give rise to an unacceptably high level of disturbance to future occupants. Furthermore, only seven of the 24 proposed units front onto Buckingham Street and so this limited number is not considered to constitute a risk to the future operation of the public house.
- 8.41 The potential future use of the D1 community use unit and its potential impact on the future occupants of the new building at number 80 has also been considered. A health care practice has expressed an interest but this is not binding. Flexibility in the future use of this unit is therefore recommended to try and maximise its potential for a successful viable use. Some D1 uses may cause more disturbance than others but given the relatively small size of the unit and a condition limiting its hours of operation; it is considered that a condition limiting its future use is not necessary on amenity grounds.
- 8.42 **Sustainable Transport:**  
The application includes the provision of some undercroft parking (for cars and cycles) accessed from Buckingham Street; there is an existing undercroft car park accessed from the same location. The level of cycle and vehicular parking proposed, including those reclaimed on-street from the removal of the ambulance bays, is within the parameters set out in the SPD14 Guidance and is considered acceptable by the Highways Authority as considered within the Highways Authority consultation response.
- 8.43 When applications are submitted for developments which do not provide on-site parking to address the full demand they may create, the impact of potential overspill parking needs to be considered. These impacts may include localised



increases in demand for on-street parking which can cause highway safety risks and can have a negative impact upon the amenity of existing residents in the vicinity of the site, as competition for on-street spaces in a particular area may increase. No parking survey has been submitted by the applicant to demonstrate capacity for on-street parking in the immediate vicinity of the site. Therefore, considering the specific merits of this scheme and the capacity of the surrounding Controlled Parking Zone, it is considered necessary to impose a condition restricting future occupants' eligibility for residents parking permits.

8.44 The Highways Authority has also suggested Travel Plan measures to be secured through a Section 106 legal Agreement to reduce the development's dependence on private car ownership and promote more sustainable modes of transport.

8.45 Landscaping:

There are limited opportunities for soft landscaping on this site; the existing site fronts closely onto the highway and apart from some limited frontage planting in the vicinity, the character of the area is predominantly terraced houses fronting the pavement with private amenity space to the rear. The Landscaping Strategy in the Design and Access Statement shows some planting to the proposed new building at the junction of Buckingham Road and Upper Gloucester Road which will provide some visual relief but the main landscaping will be to the rear.

8.46 The County Ecologist has not identified any likely harm to existing biodiversity but advises there may be some opportunities for improvement within the landscaping of the scheme.

8.47 **Other Considerations:**

The Section 106 legal agreement should secure, in addition to Affordable Housing requirements, the following financial contributions in line with Council policy:

- Education contribution of £62,387.80;
- Open Space contribution of £67,928;
- The production of an Employment and Training Strategy;
- Local Employment Scheme contribution of £7,400;
- Sustainable Transport contribution of £14,000.

## 9 EQUALITIES

9.1 Two units have been provided as wheelchair accessible homes.



# **ITEM C**

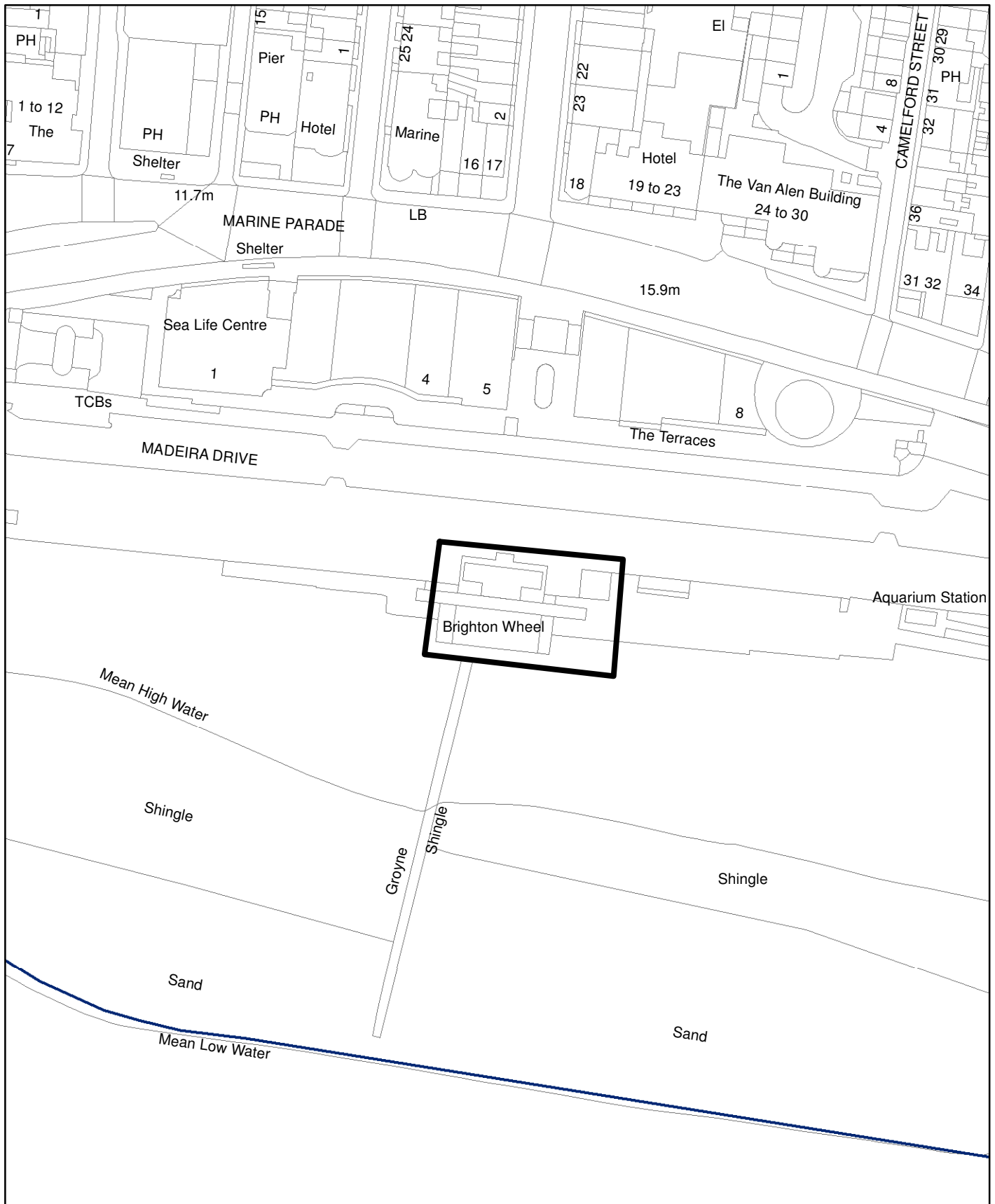
**Daltons Bastion (Site of former wheel)  
Maderia Drive, Brighton**

**BH2016/01719  
Full planning**

**DATE OF COMMITTEE**



# BH2016/01719 Daltons Bastion (site of former Wheel), Madeira Drive, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2016/01719</b>	<b><u>Ward:</u></b>	<b>Queen's Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>BATHING PAVILION EAST, Madeira Drive, Brighton (Daltons Bastion Madeira Drive Brighton)</b>		
<b><u>Proposal:</u></b>	<b>Erection of a 22.5m high tower with zip wire to a landing area along Madeira Drive opposite the entrance to Atlingworth Street with ancillary storage and changing facilities (D2 use) and erection of a café (A3). Retention of existing base plinth.</b>		
<b><u>Officer:</u></b>	Maria Seale, tel: 292175	<b><u>Valid Date:</u></b>	07.06.2016
<b><u>Con Area:</u></b>	EAST CLIFF	<b><u>E.O.T:</u></b>	11.11.16
<b><u>Listed Building Grade:</u></b>	Railings Grade II, Palace Pier Grade II*, Aquarium Terraces Grade II, Some properties in Marine Parade & Marine Place Grade II		
<b><u>Agent:</u></b>	Stiles Harold Williams 69 Park Lane Croydon CR0 1BY		
<b><u>Applicant:</u></b>	The Brighton Zip c/o Stiles Harold Williams 69 Park Lane Croydon CR0 1BY		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	934/01	C	26 September 2016
Other	PROPOSED BLOCK CONTEXT 934/10	C	26 September 2016
Site Layout Plan	934/11	C	26 September 2016
Sections Proposed	934/12	B	26 September 2016
Elevations Proposed	SOUTH 934/13	B	26 September 2016
Elevations Proposed	NORTH 934/14	B	26 September 2016
Other	LANDING STAGE 934/15	A	26 September 2016
Elevations Proposed	934/16	B	26 September

			2016
Elevations Proposed	934/17	B	26 September 2016
Floor Plans Proposed	934/18	E	26 September 2016
Other	LANDING STAGE 934/19	B	26 September 2016
Other	COMPARATIVE SECTIONS 934/20	A	26 September 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 including any demolition 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:
- (i) The phases of the Proposed Development including the forecasted completion date(s)
  - (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
  - (iii) 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)
  - (iv) 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
  - (v) Details of hours of construction including all associated vehicular movements
  - (vi) Details of the construction compound
  - (vii) A plan showing construction traffic routes

The construction shall be carried out in accordance with the approved CEMP.

**Reason:** As this matter is fundamental to the protection of amenity and highway safety throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the Brighton and Hove City Plan Part One.

- 4 No development shall commence until a scheme for the provision of a Drainage Strategy for foul and surface water sewage disposal has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.  
**Reason:** As this matter is fundamental to prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.



- 5 The A3 café/restaurant building hereby approved shall not be first brought into use until the tower, zip wires, landing stage and associated ancillary structures have first been constructed and completed.  
**Reason:** To ensure the sports/leisure attraction element of the scheme is delivered to accord with policy SA1 of the Brighton and Hove City Plan Part One which seeks to secure family and leisure based activities in this location, and in the interests of preserving the visual amenities of the area as the erection of a café building in this location is justified on the basis it is required to support the viability of the leisure/sports attraction, to comply with policies HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
- 6 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 safeguard the character and appearance of the area, to comply with policy HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.
- 7 No part of the development hereby approved shall not be first brought into use until an Operational Management Plan has been submitted to and approved in writing by the Local Planning Authority. The zip wire facility shall be carried out in accordance with the approved Operational Management Plan in perpetuity.  
**Reason:** To avoid undue noise, disturbance or nuisance and prevent loss of amenity to adjacent occupiers and users of the area, to comply with policies SU9, SU10 and QD27 of the Brighton and Hove Local Plan.
- 8 No part of the development hereby approved shall be first brought into use until a Visual Enhancement Scheme for the site including the underneath of the projecting canopy (forming part of the base plinth of the former wheel) and stanchions and commercial units located below it has been submitted to and approved in writing by the Local Planning Authority. The Scheme shall include screening of the underside of the canopy and stanchions and painting of commercial units and enhancement to their shutters, and details of how the upper promenade has been made good. The approved Scheme shall be implemented before the development is first brought into use.  
**Reason:** In the interest of visual amenity to comply with policies HE6 of the Brighton and Hove Local Plan and CP12, CP15 and SA1 of the Brighton and Hove City Plan Part One.
- 9 No part of the development hereby approved shall be first brought into use until a scheme detailing how the original listed seafront railings which were removed for the wheel development are to be restored and/or replaced within development and the base plinth altered and made good, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the railing design and materials and how they adjoin and attach to

existing seafront railings. The previous listed railings shall be re-used unless evidence is submitted to prove that they are beyond all reasonable repair or pose a safety risk and details of any replication shall be submitted to and approved in writing by the Local Planning Authority before any restoration/replication works commence. The approved scheme shall be implemented before the development is first brought into use. Reason: In the interest of visual amenity to comply with policies HE3 and HE6 of the Brighton and Hove Local Plan and CP12, CP15 and SA1 of the Brighton and Hove City Plan Part One.

- 10 The café/restaurant building hereby approved shall be used as an A3 use only and for no other purpose. Notwithstanding the provisions 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), no change of use from the A3 use shall occur without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area as the site is uniquely located in a prominent seafront location, to aid tourism and the regeneration of the area, to comply with policy SA1, CP4 and CP5 of the Brighton and Hove City Plan Part One.

- 11 The development hereby approved shall not be open to customers except between the hours of 10.00 hours and 23.00 hours daily. No other activity within the site including setting up/down shall take place between the hours of 00.00 and 09.00.

**Reason:** To safeguard the amenities of the locality and in the interests of crime prevention to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton and Hove City Plan Part One.

- 12 No cables, wires, aerials, pipework (except rainwater downpipes shown on the approved plans) meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.

**Reason:** To ensure the satisfactory preservation of this listed building and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

- 13 No development above ground floor slab level of the lower promenade hereby permitted shall take place until details and samples where necessary 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, stone, concrete, render, and roofing material (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) Samples of the proposed window, door and balustrade/railing 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 HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

14 (i) Unless otherwise agreed in writing by the Local Planning Authority, within 6 months of commencement of the development hereby permitted a BREEAM Building Research Establishment issued Design Stage Certificate confirming that the development is on target to achieve a minimum BREEAM New Construction rating of 'Very Good' has been submitted to, and approved in writing by, the Local Planning Authority.

(ii) The development hereby approved shall not be first occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the development built has achieved a minimum BREEAM New Construction rating of 'Very Good' 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 CP8 of the City Plan Part One.

15 Prior to first occupation of the A3 use hereby permitted a scheme for the fitting of odour control equipment to the building shall be 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 occupiers of adjoining properties and the general locality and to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.

16 Prior to first occupation of the A3 use hereby permitted a scheme for the sound insulation of the odour control equipment referred to in the condition set out above shall have 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 first occupation of the development and shall thereafter be retained as such.

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

17 Noise associated with plant and machinery incorporated within the development and from operation of the zip wire attraction shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014. In addition, there should be no significant low frequency tones present.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and the general locality and to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.

- 18 The development hereby permitted shall not be first brought into use until details of external lighting 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 before first occupation 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 the *character and appearance of the general locality and to comply with policies QD25, QD27 and HE6* of the Brighton & Hove Local Plan.
- 19 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
- 20 Baby changing facilities within the disabled public toilet serving the A3 business hereby approved shall be provided before the A3 use is first brought into use.  
**Reason:** To ensure the toilets are accessible to all members of the public, to comply with policies SA1, CP5 and CP17 of the Brighton and Hove City Plan Part One.
- 21 Within three months of the date of first occupation, a Travel Plan for the development shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include:  
a) A travel survey of employees and visitors;  
b) Details of publicity and ticketing initiatives including advanced booking;  
c) Details of a monitoring framework based on an annual survey, to enable the Travel Plan to be reviewed and updated as appropriate.  
The Travel Plan shall thereafter be fully implemented in accordance with the approved details.  
**Reason:** To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton and Hove Local Plan and CP9 of the City Plan Part One.
- 22 Within 6 months of commencement of development details of crime prevention measures shall be submitted to the Local Planning Authority and approved in writing to demonstrate that the scheme would meet Secure By Design standard. Within 3 months of first occupation a Secure By Design certificate shall be submitted for written approval.  
**Reason:** In the interests of crime prevention in this busy central location, to comply with policies CP12 and CP13 of the Brighton & Hove City Plan Part One.
- 23 Within 6 months of commencement of development a scheme to enhance the nature conservation interest of the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall incorporate provision

of bird and bat nesting boxes where appropriate and shall be implemented in full prior to the first occupation of the development hereby approved.

**Reason:** To increase the biodiversity of the site and ensure appropriate integration of new nature conservation and enhancement features in accordance with Policy CP10 of the 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 to contact the council's Highways department to obtain a highways licence for the development.
3. The applicant is advised that having a planning application in place is no defence against a statutory noise nuisance being caused or allowed to occur. Should the Council's Environmental Health department receive a complaint, they are required to investigate under the provisions of the Environmental Protection Act 1990 to determine whether or not a statutory nuisance is occurring.
4. Any grant of planning permission does not confer automatic grant of any licenses under the Licensing Act 2003 or the Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2). The applicant is advised that the site is located in a cumulative impact area and an applicant would have to have extra regard to presumption of a refusal for additional licences within the area.
5. 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).
6. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing).

## **2 SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The site comprises the location of the former Brighton Wheel and forms part of the Madeira Drive seafront promenade and the beach, and is located opposite The Terraces and Aquarium. The site is approximately 110 metres east of Palace Pier and currently projects out from the main seaward line of the promenade by approximately 5 metres and includes the base plinth of the former wheel. Underneath the projecting plinth there is an arcade containing an ice cream parlour and shop and concrete pathway.
- 2.2 The zip wire would extend a distance of about 300 metres eastwards parallel to Madeira Drive over the beach to the south of the Volks Railway, and the landing area would be on the beach approximately opposite the southern ends of Lower Rock Gardens and Atlingworth Street.
- 2.3 The site is located within the East Cliff Conservation Area and is close to several listed buildings, including the Grade II\* Palace Pier, and Grade II Terraces and Aquarium.
- 2.3 Planning permission is sought to erect a new permanent leisure attraction comprising a 22.5m high tower (26m high from beach level) of a bespoke spiral design with two zip wires running a length of about 300 metres parallel to Madeira Drive along the beach. A 'drop zone' landing area is proposed on the beach comprising a raised stage within a structure which has a similar appearance to an upturned boat, located approximately opposite the southern ends of Lower Rock Gardens and Atlingworth Street.
- 2.4 Single storey, flat roofed rendered ancillary accommodation is proposed comprising a ticket office, shop and lockers plus a waste store. A two storey building for use as a restaurant/café (A3 use) is proposed of contemporary design with a rendered elevations and a flat roof. The first floor would be predominantly an open terrace surrounded by a glass balustrade. The only structure at first floor level would be the stairs and integral extract riser. The public floor area of both floors excluding services etc is about 232 sqm. The applicant states the cafe is integral to the business model to ensure the viability of the project.
- 2.5 The existing former wheel base plinth is proposed to be largely retained and altered in appearance with the upper half of the render removed and replaced with railings to match the existing historic railings along the remainder of the seafront. Parts of the former wheel base next to Madeira Drive will be removed. The new café, ancillary buildings and zip wire tower would be located on the previous plinth in a raised position.
- 2.6 The applicant is proposing opening hours of between 10am-11pm daily throughout the year. The applicant anticipates that about 32,000 people per year (660-6,500 per month) would use the zip wire attraction. They state at an absolute maximum of 24 riders per hour (using both wires), with an average of about 9 per hour. They are seeking permission to open all year round for flexibility, which is likely to equate to about 85% of the year for the zip wire due to the weather.

- 2.7 It is anticipated that staffing levels for the zip wire are likely to be an average annually of 13.5 (low of 7 FTE/month, peak of 27 FTE/month). The café is proposed to have 140 covers (80 inside and 60 outside) with annual staff levels annually of 21 (low of 6.5 FTE/month, peak of 47 FTE/month).
- 2.8 The proposal has been amended since first submitted, the main changes being:
- Removal of raised platform at base of tower and extension of tower legs and stair access (overall height of tower the unaltered)
  - Reduction height of the plinth by 250mm
  - The stepped entrance to the café has been reduced, with 5 lower steps in lieu of the 6 steeper steps shown previously, increasing the width of the re-entrant before entering the café.
  - The face of the plinth has been shown as painted in an off-white, the same as the main cafeteria facades, removing the contrasting grey colour shown previously.

### 3 RELEVANT HISTORY

**BH2016/05181** Retention of temporary leisure use with ancillary catering for 6 months. (in the process of being validated and registered)

**BH2016/01615** Application for variation of condition 3(b) of application BH2011/00764 to allow retention of the plinth following the removal of the rest of the wheel structure. Under consideration - will be withdrawn if permission agreed for zip wire development.

**BH2015/00513** Application for variation of condition 3 of application BH2011/00764 to extend the temporary period for a further five years until 19 May 2021. Refused 24/6/15.

**BH2011/00764** (Erection of a 45 metre high observation wheel including extension of promenade over beach, new beach deck, ancillary plant, queuing areas, ticket booths and merchandise kiosk (for a temporary period of 5 years, except beach deck which is permanent). Approved on a temporary basis 19/5/11.

The council has issued a Screening Opinion which confirms that the development is not likely to give rise to significant environmental effects and that therefore a formal Environmental Impact Assessment is not required.

Landlord's consent from the council has been given, with the applicant offered terms for a 25 year Lease of the site.

### 4 REPRESENTATIONS

- 4.1 **Nine (9)** letters of representation has been received from **302 Lower Esplanade Madeira Drive (catering kiosks and crazy golf), 36 Marine Parade x2 occupiers, 19 Madeira Place, 8 Dinapore House, 12 Princes Street, Flat 1 50 Marine Parade, 4 Atlingworth Street, Flat 3 17 Marine Parade, objecting** on the following grounds:

- health and safety - risk of objects falling on to people below and compromise customers at adjacent snack bar business
- Significantly intrudes on sea views from Marine parade and surrounding area
- Not in keeping with conservation area, historic buildings and seafront
- Distraction to passing motorists
- supporting buildings should be on lower promenade not upper
- No reason why regeneration of area needs intrusive structures
- Wire will result in visual blocking of seafront view and not in interests of the area
- Would be better if went over the sea and finish/start on pier
- Generation of excessive noise from people shouting for joy/fear etc. 11pm finish to too late (8pm suggested)
- Increase traffic pressure and inadequate parking provision
- Will not regenerate this area of seafront as was proven with wheel
- Loss of privacy
- Excessive disturbance
- Failure to adhere to best value requirements when lease was granted
- Area should be reinstated to its former public use, Bastion was well used as an open space
- Tower is ungainly in appearance
- Drawings are not clear or complete/accurate
- Trespass/impact on neighbouring amenities
- Café is not ancillary
- Breach of policy SA1 - retention of plinth does not complement heritage or enhance character and appearance of conservation area

4.2 **Seventy (70)** letters of representation supporting the proposal have been received from **3 Lower Rock Gardens, 81 Applesham Avenue, 65 Valley Drive, 171 Elm Grove, 69 Valley Drive, 3 Atlantic Heights, Flat 3 Evelyn Court, 23 meeting House Lane, 127 Westbourne Street, Flat 1b, 26 Albert Road, 31 Embassy Court, 18 The Street, 2 Riverdale Church Lane, 19 Edward Avenue, 9 Derek Avenue, 23 Furze Hill House, 8 Lower Market Street, Ambassador Hotel 22-23 New Steine, 1 Broad Street, 12 Queen Alexandra Avenue, 212 Dyke Road, 24 Ossory Street, 9 Oxford Mews, Flat 3 27 Bedford Place, 18 Cliffe High Street, 56 Hangleton Road, 60 Tivoli Crescent, Flat 2 45 Wilbury Road, 45 Roedean Crescent, 45 Lansdowne Street, Alison Tighe (no address given), 49 Fitzjohns Road, The Rookery 73 Dean Court, 11 Welsmere Road, 24 High Street, 22 Devonshire Place, David Roberts St James Street (no number given), 19 Edward Avenue, 43-44 Marine Parade, Five 5 New Steine, 7 The Roods, Christina Bamin (no address given), 17 Upper Rock Gardens, 1 Onslow Road, 68 Gordon Road, The New Steine Hotel Bar and Bistro and Gullivers Hotel 10 11 & 12a New Steine, 109 Crescent Drive South, 17 Court Ord Road, 54 Embassy Court, Michele Bacchoo (no address given), 6a Neville Road, Seaviews 2a Mill Hill, 5 Derek Avenue, 73 Dean Court Road, 10 Waldegrave Road, Catherine Sawyer Buttsfield Lane (no number given), 41 Walnut Tree Road, 6 New Steine, Fanny Lee Kings Road (no number given), 9 Seaview Avenue, The Claremont 13 Second Avenue, 19 Grinstead Avenue, Flat 3 63 Marine Drive, 20 Withdean Road, 58 Dean Court Road, 2 Dawn Crescent, 11**



**Badger Close, 13 Price Albert Street, 54 Fort Road, 7 Bodiham House Davigdor Road, on the following grounds:**

- Proposal will regenerate the east part of the seafront, which is empty and much needed
- Will provide an attraction for both tourists and residents and boost tourism and economy generally
- Disappointment with removal of iconic wheel as city needs such strong attractions to keep vibrant and attract people east of the pier and near landing area
- Without it area will diminish
- Will support neighbouring businesses
- City should promote innovative ideas and businesses
- Will bring an exciting fun and new attraction to city enjoyed by all
- Fun is what Brighton is about
- Proposal would be amazing for children and encourage families to do together and would support sports facilities in area
- Location is well suited for proposal next to Pier and in seafront environment and compliments other attractions and what exists at Yellowwave, Peter Pan and Hove Lagoon
- The city needs attractions that actively, physically involve the participants, is a sporty alternative to i360
- Will help compete with forward thinking and leisure orientated towns like Bournemouth
- Makes use of existing infrastructure (base of wheel) which is environmentally friendly
- Is less intrusive than former wheel
- Design is attractive

One (1) letter has been received from 15 Marine Parade commenting that whilst they have no objection to the zip wire proposal they raise concerns about the unattractive and tacky temporary leisure structures currently on site.

## **5 CONSULTATIONS**

### **5.1 External**

Conservation Advisory Group (CAG): Approve. Attention is drawn to the poor done to improve this. Insufficient detail has been provided of the appearance and design of the permanent buildings proposed. This is yet another proposal for a building south side of Madeira Drive. There will be growing pressure for further developments and a policy statement should be produced identifying where such buildings are acceptable and which areas should be kept clear of development.

### **5.2 Historic England: (comments on original scheme pre-amendments)**

#### **No objection raised in principle.**

The application site lies within the East Cliff Conservation area and in the vicinity of a number of listed buildings, notably Palace Pier, Aquarium, Madeira Terraces and properties in Marine Parade and Marine Place. East Cliff Conservation Area lies between Palace Pier and Brighton Marina and is characterised by its outstanding Regency terraces set up on top of the cliff

overlooking the Victorian lower esplanade below and the wide shingle beach and sea beyond. The immediate context of the application site has a distinctive seafront character arising from its beach side position and the collection of tourist and leisure facilities and activities that coalesce here.

- 5.3 Historic England previously provided advice on the temporary consent application for the Brighton Observation Wheel at this site. At that time it was acknowledged that this vibrant seafront location which includes the Palace Pier, Sea Life centre, cafes and shops is in principle a suitable location for this type of visitor attraction provided that it was well related to the adjoining heritage and tourist facilities and was of a high quality design. In addition, the proposed Zip Tower is a much smaller structure than Brighton Wheel; approximately half the height of the wheel and far more slender. It will therefore be much less dominant than the wheel in views of the seafront and in views along the promenade towards Palace Pier.
- 5.4 HE therefore do not object to the principle of the Zip Tower in this location. However proper consideration needs to be given to any impacts of the proposal on the setting of the listed buildings, in particular in relation to the impact of this tall development on the outlook of sea facing buildings on Marine Parade and on the open seafront character of this part of the conservation area. With this in mind the scale and amount of ancillary structures associated with the Zip Wire Tower needs to be considered as to whether they are appropriate for this location and necessary to support its development and operation. Any harm should be minimised and balanced against public benefits associated with the proposal including that associated with enlivenment of this area and helping to regenerate Brighton's seafront. As advised in relation to other proposals along this part of the seafront, the regeneration of this area should be considered in a strategic and holistic way. This is because of the cumulative harm that could be caused to the conservation area by uncoordinated, piecemeal development in different locations and of various scales and height along this part of the seafront.
- 5.5 The retention of the base plinth needs to be clearly and convincingly justified as this currently has a large and unattractive fascia and casts a shadow over the commercial units and beach underneath. If its retention is justified it is advised that all efforts are made to improve its appearance including screening of the underside of the canopy and restoration of the historic seaside railings to give it a more attractive and lightweight appearance.
- 5.6 **Sussex Police:** Comment. Pleased that the Design and Access Statement submitted in support of the application gave mention to some crime prevention measures to be incorporated into the design and layout.
- 5.7 The area is within the parameter of the late night economy of the City centre and as such it experiences large amounts of footfall, noise, litter and acts of anti-social behaviour. The proposed timings for the facility will be 10:00 hours until 23:00 hours 7 days a week. This will apply to the zip wire facility and the café areas within the application. There are concerns that should the facility have the opportunity to serve alcoholic drinks the proposed opening hours

would increase footfall into this area from persons, often who are intoxicated, to remain on the streets into the early hours of the morning. This would directly impact on the provision of policing resources, particularly on Friday and Saturday nights, when demand on policing is often at a peak. Ask that any consent for this or future application for the premises is conditional that alcohol is not available on site.

**5.8 Internal:**

**Coast Protection Engineer:** Comment that there is no impact from a coast defence point of view.

**5.9 Ecology:** Support. The proposed development is unlikely to have any significant impacts on biodiversity. The site is close to the Volk's Railway Local Wildlife Site (LWS aka Site of Nature Conservation Importance), designated for its vegetated shingle habitat. The proposed site of the tower is on hardstanding (site of Brighton Wheel) and is of minimal ecological value. The exact location of the proposed landing area is unclear, but it appears to be seawards of the LWS with a reasonable buffer between. As such, it is considered unlikely that there will be any impacts on the LWS. Care must be taken to ensure that there is no encroachment into the LWS, both during construction and operation. It is considered unlikely that the site supports any 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 Environmental Health:** No objection subject to conditions relating to hours operation, noise and odour control.

5.11 This application looks to introduce a new zip wire attraction to the sea front, including a 'drop-zone', a café, and storage ancillary to the café. For reference it is proposed for the zip wire attraction, and its ancillary uses operate from 10:00 hours to 23:00 hours, 7 days week.

5.12 The extraction plant located at the café will create a point noise source, and the zip wire itself will create a line noise source, with a point source for braking. As such an acoustic report by Acoustic Associates Sussex Ltd (ref: J2028), dated 25th May 2016 was submitted as part of the application in order to identify the potential noise levels from these sources.

5.13 Environmental Health raised questions over whether the closest receptors had been considered in the report, which was considered to be the café that would be directly below the proposed wire. As such, Acoustic Associates Sussex Ltd has now re-submitted the report with addendum to address these concerns.

5.14 It is understood that even during a busy hour, the average noise from the zip wire will be approximately 15dB lower than the existing LAeq noise level.

5.15 While individual zip events will be audible at the closest business receptors, the report shows that such events will be less frequent, and significantly quieter than existing noise from passing traffic on Madeira Drive.

- 5.16 Given the current climate of the area, and the fact there already multiple LAmx events within a given hour that would exceed that of the proposed zip wire, the application should be approved as it will not significantly change the existing noise environment.
- 5.17 The applicant should be aware however that such permission does not prevent local residents or businesses making complaints to Environmental Health in regards to noise, which we would be duty bound to investigate for statutory nuisance under Section 80 of the Environmental Protection Act 1990.
- 5.18 The risk of shoes falling off and money falling from pockets to commercial enterprises below, would be an operational health and safety matter and would be dealt with by the operators of the ride. This would be covered by existing health and safety legislation.
- 5.19 **Heritage:** Comment (comments on original scheme pre-amendments & additional information):  
 This is a prominent site on Brighton seafront. It is within the East Cliff Conservation Area and the settings of listed buildings including the Aquarium and Terraces, Palace Pier, and properties in Marine Parade and Madeira Place. It forms part of the broad pedestrian promenade running the length of Madeira Drive and overlooks the open beach below and sea beyond. A significant part of the site is formed by a temporary structure which projects beyond the historic line of upper promenade and interrupts the otherwise unbroken length of cast iron seafront railings which are so recognisable as part of Brighton's seafront.
- 5.20 The temporary approval of the plinth in 2011 and the requirement to remove it along with the wheel acknowledges the negative impact the extended plinth would continue to have on the beach/ lower prom and Madeira Drive if it were to remain. Convincing justification is required to allow an understanding of why the plinth is necessary for the positioning of the proposed tower, and an explanation of why the proposal could not be built on the original promenade. The depth of the existing slab has a negative impact on the appearance of the lower prom and the projecting plinth creates a dark gloomy area. In addition it is considered that the underside of the projecting plinth has an unacceptable finish that harms the environment further. It is also considered that the bulk of the slab has a harmful impact when viewed from the East and West, and the resulting difference in levels of the prom itself is uncharacteristic of this stretch of seafront and creates a visual barrier to the otherwise broad, open paved area. Permanent approval for the retention of the projecting plinth is therefore resisted.
- 5.21 Setting the issues of the base of the structure aside, the proposal for the zip wire and associated development is considered appropriate in terms of use, and generally in the design of the structures. The reservations from the Heritage Team relate to the additional plinth on which the tower structure is placed - involving further bulk, changes in surface level and more glass balustrading, all of which it is considered should be avoided. There is some confusion from the cross sections, which do not show the historic cast iron balustrades reinstated

and clarification is required to avoid uncharacteristic gaps in the otherwise unbroken (apart from at steps and ramps) stretch of historic railings.

- 5.22 It is considered that there would be public benefit from the provision of the new facility and that the use would accord with the Council's policies for this part of the seafront, however the permanent retention of the projecting platform for a facility that would conceivably have a relatively short life span could result in unjustified harm to the conservation area, contrary to the requirement of the Planning (Listed Building and Conservation Areas) Act 1990 to 'preserve or enhance the character of the conservation area' and the NPPF to 'sustain or enhance the significance of the heritage asset' . Neither would it accord with the Council's aim of enhancing and improving the public realm.
- 5.23 Therefore unless the zip and cafe facility can be located on the restored promenade, or alternatively the retention of the projecting plinth securely linked to the provision of this public benefit, it is not possible to support this proposal on heritage grounds. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in exercising its powers under the planning Acts in respect of buildings or other land within a conservation area, the local authority shall pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. 'Preserving' means doing no harm. There is therefore a statutory presumption, and a strong one, against granting permission for any development which would cause harm to a conservation area. This presumption can be outweighed by material considerations powerful enough to do so. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation or enhancement of the conservation area.
- 5.24 (Comments made on amended scheme and further supporting information)  
The removal of the plinth on which the tower was to be mounted is welcomed along with the reduction in visual clutter associated with the levels, and although the reduction in height of the rest of the ground surface is not great, it is an improvement. It is considered that due to the positioning of the café building across most of the width of the Bastion, the different levels would be largely obscured and concern over this aspect of the scheme is reduced accordingly.
- 5.25 The apparent bulk of the existing deck will be visually reduced by the removal of the solid balustrade and addition of traditional railings, however the details of the railings will need to be conditioned to ensure accurate reproduction of the historic iron pattern.
- 5.26 The proposed cladding and render finish to the stanchions will improve the current environment at beach level. It is also important that the underside of the projecting structure receives the same treatment and this needs to be secured by condition.
- 5.27 Whilst the Zip attraction may have a relatively short life the café facility will occupy the bulk of the site therefore it is accepted that the retention of the enlarged esplanade and projecting base for the former wheel is tied to a public

amenity which is appropriate to the character of this part of the seafront. With the improvements that have been negotiated through the course of this application it is considered that the public benefits justify the retention of the projecting base area and the objection to this is therefore withdrawn.

**5.28 Planning Policy: Comment**

The proposal provides a new leisure/sport attraction for the Seafront and particularly Madeira Drive which will complement the existing businesses and add to the overall visitor offer in the city and help boost the economy. The attraction will enhance the family leisure offer for Madeira Drive and contribute towards the regeneration of this area of the seafront. Subject to the comments of the Head of Sport & Leisure and the Head of Tourism it is considered that the proposal would accord with part one of Policy CP5 Visitor Accommodation.

5.29 Whilst Daltons Bastion is not an identified development site in the City Plan Part One the use of the site for a proposed zip wire/drop zone attraction would in principle comply with policy SA1 The Seafront which encourages family and sports based activities in this particular location.

5.30 The proposal would also accord with Policy CP17 Sports Provision which encourages new sports development which meets identified needs, meet quality standards, and optimise their accessibility and affordability to all users including local community and visitors. However it is unclear if the Brighton Zip attraction is fully accessible to the disabled and this should be clarified by the applicant.

5.31 The provision of adrenaline/ less conventional sport attraction would comply with the recommendations of the Open Space, Sport and Recreation Study (2008/9) a background evidence document supporting CP17.

5.32 Whilst the site is an edge of centre location, it is accessible and well connected to the town centre and the proposed sporting/leisure use would accord with overarching strategy for sport and leisure activities in this area of the seafront. This is an established tourist location where retail uses exist to support the seafront as a tourist destination and help regenerate the seafront. It is therefore not considered necessary in this instance to require a sequential site assessment. The proposed 192 sq. m A3 seated restaurant is proposed to support and complement the zip wire attraction. The applicant has indicated that the tower and cafe operating in conjunction with each other will make the project financially viable due to the tower's high operating costs and limited margins with those costs although this is not detailed in the documents accompanying the application. Subject to this clarification, it is considered that the proposed use would not raise policy objections. The proposal for the A3 unit to be operated as a seated restaurant would comply with the retained local Plan policy SR12. It is suggested that the seated element should be conditioned to ensure compliance with this policy.

5.33 The retained 2005 Local Plan policy SR18a) states there should be no development on the beach. Whilst the exact size of the landing stage area should be clarified, it is not considered to be an excessive structure on the beach and the wires and landing stage would not impede the use of the beach

as open space. Proposals for the seafront should promote high quality architecture, urban design and public realm which complements the natural heritage of the seafront and preserves and enhances the character of conservation areas and historic features.

5.34 **Seafront Team:** Support.

This development for the Dalton's Bastion site already has Landlord's consent from the council and the applicant has been offered terms for a 25 year Lease of the site under delegated powers. The operator of the Zip currently has a Lease for the premises below Dalton's Bastion in which an ice cream parlour and a beach goods shop are located.

5.35 It is felt the Zip will provide a much needed leisure attraction to the western end of Madeira Drive and will complement the existing commercial uses in the vicinity. The trajectory of the Zip wire has been planned to ensure that it does not impact on beach users, adjacent businesses and the Volk's Railway. The landing stage which will be located on the beach approx. 300m east of Dalton's Bastion has been sympathetically designed to fit with the beach location and will be made from appropriate materials suited to the marine environment.

5.36 The preference is that the Zip element be built in advance of the café to ensure that the leisure attraction is the dominant feature. This will be reflected in the terms set out in the Agreement for Lease. The contemporary style of the café is supported and the design which mixes good outdoor and indoor space to ensure the operator can trade successfully all year round. There is currently a lack of indoor catering offers in this part of the seafront and the council actively encourages tenants to open all year round. The reinstatement of the seafront railings is welcomed which are proposed for the south, east and west elevations.

5.37 **Sports Development:** Support in principle. The draft seafront strategy the area designates a 'leisure use' and the city has nothing of a similar nature.

5.38 **Sustainable Transport:** No objection subject to conditions/S106 relating to updating of pedestrian signage and submission of a travel plan.

5.39 **Pedestrian Access:**

Pedestrian access will be similar to that during the operation of the Brighton Wheel. Whilst the Highway Authority would not wish to restrict the grant of planning consent, the future development would be subject to a license being granted. It is noted that the applicant forecasts that the majority of trips to the development will be on foot (see Trip Generation comments below). It is considered therefore that pedestrian wayfinding signs within the vicinity of the site and on routes to it will need updating to reflect the proposed development. This is directly relevant to the development and will be in the applicant's interests in assisting visitors arriving on foot. A contribution of £10,000 is therefore requested to allow existing wayfinding signs to be updated. This would facilitate access on foot and is in accordance with Brighton & Hove City Plan Part One policies CP7, CP9 and SA1.

5.40 **Car Parking:**

There is suitable parking provision along Madeira Drive for those who choose to drive to the site, though the Highway Authority would expect the operator to promote sustainable alternatives to users through the implementation of a Travel Plan, further details of which are provided in the trip generation section below. There are a number of disabled bays immediately adjacent to the site whilst disabled users are able to use pay and display bays. Therefore, no objections are raised in this respect.

5.41 Cycle Parking:

The applicant notes that cycle parking was installed for the Brighton Wheel in close proximity to the site. Whilst well used, there are a number of cycle stands in this area and it is considered that the provision associated with the Brighton Wheel is appropriate for the proposed development. Therefore, on this occasion it is not considered reasonable to seek additional contributions for cycle parking.

5.42 Servicing:

The proposed café would be serviced in the same way as neighbouring premises and therefore the Highway Authority raises no objections in this respect.

5.43 Trip Generation:

The Planning Statement includes estimates of future visitor numbers. By its own admission, the development is unique and as such the forecasts are not based on existing similar sites and are uncertain. Nevertheless, the applicant has suggested an average of 9 visitors per hour with a maximum capacity of 24 users per hour. Based on the latter and 13 hours of opening per day, it would theoretically be possible that the zip attracts 312 visitors per day in addition to staff. In practice however, it is noted that this is extremely unlikely with maximum capacity only likely to be reached at certain hours of the day during peak periods. The associated café would also be expected to generate additional trips, though these are more likely to be connected to the proposed zip wire and neighbouring seafront attractions.

5.44 By comparison, the Brighton Wheel was forecast to generate an average of 2,384 week day visits and 3,775 weekend day visits per day. Although the Planning Statement for the zip application states that original forecasts were not met, it was on this basis that the application was assessed. It is therefore reasonable to conclude that the impact from a trip generation point of view will not be more significant than the Brighton Wheel. It is noted that the applicant markets the attraction as enhancing the city's offer and, by implication some of these trips may be 'new'. However, as is suggested in the Planning Statement, the Highway Authority would also agree that it is reasonable to expect that many of these trips will be linked to other seafront and city centre attractions.

5.45 The applicant has indicated that they would be willing to prepare and implement a Travel Plan. It is therefore recommended that this be secured by condition in order to encourage sustainable modes of travel to the site and assist in mitigating the impact of those trips that do occur in accordance with Brighton & Hove City Plan Part One policy CP9 and Brighton & Hove Local Plan policy TR4.

5.46 S106:

It is noted that developer contributions to sustainable transport measures were secured as part of the application in install the Brighton Wheel. Given that anticipated visitor numbers are not expected to be greater than those originally forecast for the wheel, it is not considered that there would be additional impact



on surrounding highway and transportation networks in terms of increased trips. Therefore, a contribution to mitigate the likely trips in accordance with the council's standard contributions formula would not be requested on this occasion. It is however considered that it would be necessary to update wayfinding signs on routes serving the site as per the pedestrian access comments detailed above.

- 5.47 VisitBrighton:** Support the proposal. The application is welcomed and will positively enhance the City's leisure facilities, both for residents and tourists. The proposed Brighton Zip will add a new and novel attraction to the seafront which will encourage visitor spend will help attract and support tourism outside of the main season. The facility may encourage visitors to extend their stay or indeed act as a stimulus for instigating a trip to the City. It is essential that the City's leisure facilities constantly evolve in order for our tourism offer to remain competitive.

## **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
- CP2 Sustainable economic development
- CP4 Retail provision
- 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  
CP15 Heritage  
CP16 Open space  
CP17 Sports provision  
DA1 Brighton Centre and Churchill Square Area  
SA1 Seafront  
SA2 Central Brighton

Brighton & Hove Local Plan (retained polices March 2016)

TR4 Travel plans  
TR7 Safe Development  
TR14 Cycle access and parking  
TR15 Cycle network  
TR18 Parking for people with a mobility related disability  
SU3 Water resources and their quality  
SU5 Surface water and foul sewage disposal infrastructure  
SU6 Coastal defences  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
SU11 Polluted land and buildings  
QD5 Design - street frontages  
QD15 Landscape design  
QD18 Species protection  
QD25 External lighting  
QD27 Protection of amenity  
SR4 Regional shopping centre  
SR12 Large Use Class A3 (food & Drink) venues and Use Class A4 (pubs)  
SR18 Seafront recreation  
HE3 Development affecting the setting of a listed building  
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Guidance:

Guidance on Developer Contributions (2016)

Supplementary Planning Documents:

SPD09 Architectural Features  
SPD11 Nature Conservation & Development  
SPD14 Parking Standards

## **8 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to:

- Impact to the visual amenities of the locality including the special character and appearance of the East Cliff Conservation Area, the setting of nearby listed buildings and the setting of the wider seafront
- Principle of introducing a leisure/sports use and A3 restaurant/cafe in this location
- Impact on tourism and the economy

- Impact on the main city centre shopping area
- Impact on amenity of existing occupiers of nearby properties and users of the seafront
- Crime prevention
- Transport demand and sustainable transport accessibility
- Sustainability and biodiversity

**8.2 Planning Policy Context:**

Policy SA1 'The Seafront' of City Plan Part One states that the council will encourage regeneration of the seafront and that proposals should support the year round sport, leisure and cultural role of the seafront for residents and visitors whilst complementing its outstanding historic setting and natural landscape value. Proposals should ensure a good marine environment, enhance biodiversity and consider options for small scale renewable energy provision.

8.3 The policy sets out priorities for the whole seafront which include enhancement of public realm, provision of adequate facilities for residents and visitors, improvements to beach access and the shoreline and ensuring the seafront is accessible for everyone. Securing high quality architecture which complements the natural heritage of the seafront and historic built environment is identified as a priority.

8.4 SA1 identifies specific priorities for the area of the seafront east of Palace Pier to the Marina and states development should:

- Deliver the regeneration of Madeira Drive as a centre for sports and family based activities supported by a landscape and public art strategy which also provides for an improved public realm and conservation and enhancement of the historic and nature conservation features present in this location;
- Safeguard the vibrant and important event space at Madeira Drive as this presents a unique location for a mix of cultural, sport and leisure activity to take place;
- Improve beach access and seafront access for pedestrian and cycle users, linking with access improvements at the Marina/Black Rock.

8.5 City Plan policy CP17 is relevant as it relates to sports provision. Its key aim is to facilitate the council's aspiration to increase participation in sports and physical activity. The policy seeks to ensure sports services and facilities and spaces are safeguarded, expanded, enhanced and promoted. One priority is to encourage new sports facilities which meet identified needs. All new provision will be expected to meet quality standards, optimise their accessibility and affordability to all users and proposals should seek to improve the variety of provision in the city, especially from sectors of the community currently under represented.

8.6 The Open Space Sport and Recreation Study (2008/9) is a background document to the City Plan Part One and is therefore a material consideration. The supporting text to CP17 states that this study has identified that the city's outdoor space provision is low compared to other local authorities and recognises that the compact and dense nature of the city means new provision

will be challenging. The Study suggests the council should explore the provision of additional adrenaline or less conventional sports facilities such as climbing/bouldering and skating.

8.7 City Plan policy CP5 is relevant as it relates to culture and tourism. Its key priority is to maintain and enhance the cultural offer of the city to benefit residents and visitors. It aims to support the role the arts, creative industries and sustainable tourism sector has in creating a modern and exciting visitor destination with a range of high quality facilities, spaces, events and experiences. New visitor attractions will be expected to:

- Be of a high environmental standard in terms of design, management and access;
- Complement and build on the city's distinct tourism offer;
- Contribute to a sense of place;
- Reduce seasonality;
- Promote diversity;
- Widen local access;
- Support the regeneration of the city and benefit the city's economy; and be accessible by public transport.

8.8 City Plan policy CP4 is relevant as a town centre 'A' use (which includes A3 café/restaurant uses) is proposed. It states that Brighton & Hove's hierarchy of shopping centres will be maintained and enhanced by encouraging a range of facilities and uses, consistent with the scale and function of the centre, to meet people's day-to-day needs, whilst preserving the predominance of A1 use classes. It states that applications for all new edge and out of centre retail development will be required to address the tests set out in the NPPF. Applications will be required to complete an impact assessment at a locally set threshold of 1,000 sqm (net) floorspace or more.

8.9 Policy SR18 of the Brighton and Hove Local Plan is relevant as it relates to seafront recreation. This states that new recreation facilities which are related to seafront/coastal activities will be permitted on the seafront provide that:

- There will be no development onto the beach;
- The importance of the seafront and beach as an open space is not undermined;
- Any development does not have a detrimental impact on strategic views along the coastline;
- The development makes a considered response in its design to the Visual and environmental character of the stretch of seafront to which it relates, supported by a design statement which addresses that character;
- The development does not have a harmful impact on the amenity of local residents and the seafront due to noise, disturbance and light pollution;
- The development will not result in the significant generation of car borne journeys, nor additional pressure for car parking;

- The development will not have an adverse impact on the setting of important seafront buildings;
  - The development does not have an adverse impact on nature conservation interests; and
  - Any development enables the beach and seafront to be accessible to all.
- 8.10 Policy SR12 of the Brighton and Hove Local Plan is relevant as the proposal involves a 'large' A3 use of more than 150 sqm floor area (approx. 232 sqm) and it is located quite close to other A3/A4/nightclub establishments along seafront, Aquarium Terraces and the Pier. This policy seeks to reduce noise, disturbance and crime that may be associated by congregation of such uses.
- 8.11 With regard to design, heritage and amenity, policies CP12, CP13 and CP15 of the City Plan Part One and policies HE3, HE6, QD5 and QD27 of the Brighton & Hove Local Plan are relevant.
- 8.12 City Plan policy CP12 expects all new development to be built to a high quality standard and seek to ensure places that are created are safe, and incorporate design features which deter crime and the fear of crime. CP15 states that the city's historic environment will be conserved and enhanced in accordance with its identified significance, giving the greatest weight to designated assets. Local Plan policies HE3 and HE6 seek to conserve or enhance the setting of Conservation Areas and Listed Buildings. Local Plan policy QD5 states that all new development should present an interesting and attractive frontage at street level for pedestrians.
- 8.13 The Council has statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to development affecting listed buildings and conservation areas:
- 8.14 S66 (1) "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses";
- 8.15 S72(1) "In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2) [N.B. these include the Town and Country Planning Act 1990], special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".
- 8.16 The National Planning Policy Framework (NPPF) states that in determining planning applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation assets can make to sustainable communities including their economic vitality and the desirability of new development making a positive contribution to local character and distinctiveness (para 131).

- 8.17 Para 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 8.18 Paras 133 & 134 of the NPPF state that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 8.19 Para 136 of the NPPF states that local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
- 8.20 Para 137 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.
- 8.21 Local Plan policies QD27, SU9 and SU10 are relevant to this development and they seek to protect the general amenity of the locality and that of neighbouring occupiers/users from undue noise, odour and general disturbance. Policy QD27 states that planning permission for any development 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.
- 8.22 With regard to transport, City Plan policies CP9 (Sustainable Transport) and Local Plan Policies TR4 (Travel Plans), TR7 (Safe Development), TR14 (Cycle access and parking), TR15 (Cycle network), TR18 (Parking for people with a mobility related disability) are relevant. These seek to ensure development is safe, meets the demand for travel it creates and maximises use of sustainable modes. TR15 states that development that affects proposed or existing cycle routes should protect and enhance their alignment, and identifies the seafront National Cycle Route 2 as a key route. SPG4 sets out maximum parking standards for development and minimum standards for disabled parking.
- 8.23 With regard to sustainability, City Plan Policy CP8 is relevant. It requires all development to incorporate sustainable design features and minor commercial developments (of less than 1000sqm floor area) are required to achieve a minimum standard of BREEAM 'very good'. City Plan Policy CP10 relating to

biodiversity is relevant and this states all schemes should conserve existing biodiversity and provide net gains wherever possible. City Plan policy CP11 seeks to manage and reduce flood risk.

**8.24 Principle of development and uses proposed:**

The introduction of new leisure/sports and café/restaurant uses is supported in principle.

8.25 The zip wire element is considered to broadly comply with policies SA1, CP17 and CP5 of the City Plan. Whilst Daltons Bastion is not an identified development site in the City Plan Part One, the use of the site for a proposed zip wire/drop zone attraction would in principle comply with policy SA1 which encourages family and sports based activities in this particular location. The proposal would increase the variety of sports offer in the city, which is welcomed and encouraged in line with policy. The proposal will encourage physical activity and meet an identified demand for adrenaline sports. The proposal would complement the existing businesses and add to the overall visitor offer in the city and help boost the economy. The attraction will enhance the family leisure offer for Madeira Drive and contribute towards the regeneration of this area of the seafront, which whilst relatively busy and attractive, is not fulfilling its potential. The proposal would complement other existing attractions and tourist offers such as the nearby crazy golf, Volk Railway and Pier and the proposed sporting/leisure use would accord with overarching strategy for sport and leisure activities in this area of the seafront.

8.26 The proposal is supported by the Seafront Team and VisitBrighton.

The zip wire element would not be fully accessible to people with a mobility related disability, which is disappointing, however it is recognised that not all sports facilities, and especially adrenaline ones, are suitable for this. The ground floor of the café will be fully accessible.

8.27 The proposal is considered in principle to broadly comply with retained 2005 Local Plan policy. Part a) of policy SR18 states there should be no development on the beach however the proposed landing area is not considered to be an excessive structure on the beach and the wires and landing stage would not impede the use of the beach as open space.

8.28 The applicant states the proposed A3 café/restaurant use is needed for the viability of the zip wire and it would complement and support the attraction, however no business case has been submitted to evidence this. The benefits of the A3 element are however recognised and such uses are considered appropriate at the seafront. This part of the seafront is a well-established tourist area with a number of existing restaurant uses operating. The café would help enable a sustainable business model for the zip wire and makes effective use of the site, which is encouraged, and the scheme has the added benefit of producing income for the council. The proposed uses would generate footfall, add vibrancy to the area, be used all year round beyond the peak summer months and would support the seafront as a tourist destination, and is therefore

welcomed in accordance with policy SA1. Whilst the site is an edge of centre location, it is accessible and well connected to the town centre. It is therefore not considered necessary in this instance to require a retail sequential site assessment as per policy CP4. A phasing condition is recommended to ensure the zip wire facility is delivered first and not just the café in isolation, to secure this important sports/leisure attraction.

- 8.29 Given there are permitted rights to change from A3 use to A2 and A1, and to other uses on a temporary basis, a condition is recommended to control/assess any future changes of use in the interests of ensuring this unique and prominent site contributes towards the vibrancy and tourism offer appropriate to its seafront location.
- 8.30 The A3 café/restaurant is welcomed in principle for the reason given above, however, given the proximity to other existing restaurants and drinking establishments, the police have raised concerns about the potential for anti-social behaviour. The concerns regarding the cumulative impact zone for drinking establishments is noted and shared, as are the aims of Local Plan policy SR12, however, it is considered that there are insufficient planning grounds to restrict sale of alcohol. A3 uses by their very nature involve people sat at tables and have quite a different impact to an A4 bar/pub. Any bar area as part of the restaurant would be ancillary only and below the 150sqm identified in policy SR12 (otherwise could not be described as 'ancillary'). Restrictions on opening hours would lessen any potential impact. The council's Environmental Health team raise no objection to the proposal or the proposed opening hours (10am-11pm daily). In any event, the consumption of alcohol is a matter controlled by the Licencing Authority outside of the planning regime. To ensure all appropriate crime prevention measures are taken at this busy central site, a condition requiring Secure By Design certification is recommended.
- 8.31 The site is a vibrant seafront location which includes the Palace Pier, Sea Life centre, cafes and shops and is in principle considered a suitable location for this type of visitor attraction, provided it is of the highest quality design (see section on design for further comment below).
- 8.32 Amenity  
The site is located directly on the seafront and there are no immediate residential neighbours, the nearest being to the north on Marine Parade. The site is located close to other commercial establishments. The site is located in a busy central area used by residents and tourists and therefore experiences relatively high levels of background noise. Additional information has been submitted in the form of a noise report and the Environmental Health Team concur with its findings. It concludes there would be no adverse impact in terms of noise in this particular location. A condition is recommended to ensure predicted noise levels are not exceeded.
- 8.33 Any potential for noise or odour from the extract plant proposed can be satisfactorily controlled by condition.



- 8.34 Some concerns have been raised with regard to health and safety of the proposal and in particular the potential for users of the zip wire dropping items on to people below. An adjacent business (fish and chips outlet/crazy golf) raises concerns about this and potential adverse impact upon their business. Health and safety matters are however not strictly planning matters and are dealt with by separate legislation. This is confirmed by the Council's Environmental Health team. They are management matters for the operator to address outside of the planning process. The applicant has submitted further supporting information relating in this regard which indicates it will be run by an established experienced company and that the safety of such attractions is very much down to procedures followed and how its managed etc. Lockers are provided to hold valuables. The protection of general amenity is, however, a material planning consideration and it is important the proposal does not prejudice people's general enjoyment of the beach and seafront, or adversely affect tourism. On this basis therefore, submission of an operation/management plan is recommended by condition.
- 8.35 A Construction Environmental Management Plan (CEMP) to be secured by condition is considered necessary to avoid undue noise and disruption during the construction given its location in a busy seafront and close to businesses (and residents further afield).
- 8.36 On the basis of the above, it is considered the proposal would not cause any adverse impacts in terms of amenity on nearby occupiers or users of the seafront generally, provided appropriate conditions are imposed. The proposal would therefore accord with policies SU9, SU10 and QD27.
- 8.37 **Design and the impact to the character and appearance of the locality and heritage assets:**
- 8.38 The site is sensitively located in a prominent position within the East Cliff Conservation Area and within the setting of several listed buildings, including the Grade II\* Palace Pier. The design and appearance of the proposal therefore needs to be of the highest quality and sympathetic to its surroundings.
- 8.39 The location, design and height of the proposed zip wire tower (and associated wires and landing stage) are considered acceptable. The site is a vibrant seafront location and is in principle a suitable location for this type of visitor attraction. The character of this coastal part of the East Cliff Conservation area is of wide open views with some modest tourist attractions and businesses and it is considered the proposal would not unduly compromise this intrinsic character or harm the setting of nearby listed buildings. The tower is of much smaller scale than the previous wheel (which was considered acceptable on a temporary basis only for heritage protection reasons) being less than half as high and is therefore less dominant, and therefore has less impact to the historic seafront setting and wider views. The introduction of a relatively modest largely single storey cafe building with an open terrace above (and only staircase and plant at second floor level) is considered acceptable in principle and the ancillary buildings are modest in scale and of matching design. Whilst limited information has been supplied with the application to demonstrate the need for

the café to make the zip wire viable, on balance, given that its visual impact would be limited and it clearly will support this particularly welcomed sports/leisure attraction and boost year round tourism and help regenerate the seafront, it is considered acceptable.

- 8.40 Historic England and CAG warn that the regeneration of this area should be considered in a strategic and holistic way because of the cumulative harm that could be caused to the conservation area by uncoordinated, piecemeal development in different locations and of various scales and height along this part of the seafront. This view is concurred with and this proposal will not set a precedent. It is anticipated that strategic plans for this area of the seafront this will be looked at as part of the City Plan Part Two and link with the Council's emerging Seafront Investment Plan and Madeira Drive Regeneration Framework.
- 8.41 The proposed tower is of an attractive and elegant bespoke design. No objections to the design of the tower structure itself have been received from Historic England or the council's Heritage Team. The amended scheme removes the bulky plinth at the bottom of staircase of the tower which was originally considered harmful and this is a significant visual improvement and reduces visual clutter. The café is of simple sympathetic design which echoes modernist/art deco coastal design and is considered appropriate. The removal of the lower band of darker render has improved its appearance and removes the emphasis of level change. The ancillary buildings are quite small and will be permanent buildings rendered to match the cafe.
- 8.42 Both Historic England and the Heritage Team have raised concerns regarding the proposed retention of the base plinth for the former temporary wheel. Given this has a large and unattractive fascia and casts a shadow over the commercial units and beach underneath, amendments have been sought to improve its appearance. Concerns have also been expressed regarding the change in levels between the plinth and the lower level of the main upper promenade (change of 700mm) which is not characteristic of the historic seafront.
- 8.43 Due to the positioning of the café building across most of the width of the Bastion, it is considered the different levels would be largely obscured. The overall height of the plinth has also been reduced slightly (by 250mm) which is a small improvement. Further height reductions are not possible without removing the plinth completely. The plinth has in effect been reduced in scale from the north due to the removal of one of the ramps up to the wheel, leaving more open promenade. This means the site is now located south of the main row of seafront railings, lessening its impact. The upper rendered parts of the plinth surround would be removed and replaced by restored historic railings, which would give the plinth a more attractive and lightweight appearance and it would tie in better with the rest of the seafront. Any new railings required would be conditioned to match the historic iron pattern. The applicant has committed to improve its appearance further by screening of the underside of the canopy and rendering the steel mesh stanchions. These and further visual enhancements will be secured by condition including painting of units and shutters underneath the canopy. The base plinth is a substantial structure despite being 'temporary'

and the proposal would make effective use of it, which is welcomed. The Heritage Team confirm that amendments to the scheme have reduced their concerns accordingly. It is considered that any remaining harm caused by the plinth would be less than substantial and is outweighed by the public benefits of the proposal, in accordance with the requirements of the NPPF.

8.44 In view of the above therefore, the proposals are considered to comply with both Local and City Plan policies and the NPPF as they represent good quality architecture and preserve and enhances the character of the East Cliff Conservation Area and setting of listed buildings and historic features.

8.45 **Sustainable Transport:**

Given the comments received from the Highway Authority it is considered that the demand for travel created by the development can be adequately met and no objections are raised in this regard.

8.46 The new uses would not have a more significant impact than the former wheel and most trips would be on foot and linked to visits to other attractions. The site is centrally located to take advantage of sustainable transport and public car parking, including disabled. New cycle parking was secured for the former wheel and can satisfactorily serve this development. Servicing can occur from Madeira Drive as per other seafront businesses. As this is a permanent new attraction and most visits will be on foot, it is considered necessary to secure S106 funding towards upgrade of the existing city wayfinding signs. A Travel Plan can be secured by condition to ensure staff and visitors are encouraged to use sustainable modes of travel to the site. The plinth area would be reduced giving a larger public promenade area, which is welcomed.

8.47 The proposal is therefore considered to accord with sustainable transport policy and meets key priorities of seafront policy.

8.48 **Sustainability, biodiversity & flood risk:**

As a 'minor' scheme of less than 1000sqm floor area, the development is required to meet a BREEAM 'very good' sustainability standard in order to comply with policy CP8 (this will change to 'excellent' standard post-2016). The applicant has stated that the proposal will be able to achieve 'very good', which is welcomed. This can be satisfactorily conditioned to ensure the scheme is sustainable.

8.49 Adequate space is shown within the scheme for refuse and recycling and its provision will be conditioned.

8.50 The site has no current biodiversity interest however enhancements are required in line with policy CP10, as confirmed by the County Ecologist. The scheme does not address this, therefore a condition requiring details of enhancement, for example through the provision of discrete bird or bat boxes, is recommended to satisfactorily address this policy.

8.51 The development is not considered to be at undue risk from flooding. The council's Coastal Engineer has confirmed the scheme would have no impact

with regard to coast protection or coastal processes. A drainage strategy will be secured by condition to ensure this is carried out satisfactorily.

## **9 EQUALITIES**

9.1 There would be ramp access to the ground floor part of the café. Disabled toilets and baby changing facilities would be provided, the latter secured by condition. People with a mobility related disability would not be able to use the zip wire itself.

### **9.2 Section 106 Head of Terms**

A financial contribution of £10,000 to update pedestrian wayfinding signs within the vicinity of the site and on routes to it.

# **ITEM D**

**101 Roundhill Crescent, Brighton**

**BH2016/00752**  
**Full planning**

**DATE OF COMMITTEE**





**Brighton & Hove  
City Council**



**Scale: 1:1,250**





<b><u>No:</u></b>	<b>BH2016/00752</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>101 Roundhill Crescent Brighton</b>		
<b><u>Proposal:</u></b>	<b>Erection of 1no three bedroom dwelling (C3) incorporating alterations to boundary wall and external alterations to existing building including repair works, alterations to fenestration and associated works.</b>		
<b><u>Officer:</u></b>	Mark Dennett, tel: 292321	<b><u>Valid Date:</u></b>	04.04.2016
<b><u>Con Area:</u></b>	ROUND HILL	<b><u>Expiry Date:</u></b>	30.05.2016
<b><u>Listed Building Grade:</u></b>	Grade II		
<b><u>Agent:</u></b>	ZSTA 3 Dorset Place Brighton BN2 1ST		
<b><u>Applicant:</u></b>	Ms Wendy Jamieson 101 Roundhill Crescent Brighton BN2 3GP		

This application was deferred from Committee on the 14 September 2016 to allow Members to carry out 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Block Plan	1415/P/001		1 March 2016
Location Plan	1415/P/002		1 March 2016
Other	1415/E01		1 March 2016
Floor Plans Proposed	1415/P110		1 March 2016
Floor Plans Proposed	1415/P111		1 March 2016
Elevations Proposed	1415/P120		1 March 2016
Elevations Proposed	1415/P121		1 March 2016
Elevations Proposed	1415/P122		1 March 2016
Elevations and sections proposed	1415/P123		1 March 2016
Elevations Proposed	1415/P124		1 March 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 extension, enlargement or other alteration of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A and C 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 character of the area and for this reason would wish to control any future development to comply with policy QD14 of the Brighton & Hove Local Plan.
- 4 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.
- 5 No development shall take place until the following have been submitted to and approved in writing by the Local Planning Authority:
- a) Samples of all render (including details of the colour of render/paintwork to be used) and roofing materials.
  - b) Samples of all hard surfacing materials
  - c) Samples of all other materials to be used externally
  - d) Drawings of the proposed eaves, including in section; render mouldings and proposed chimney at a scale of not less than 1:5.
  - e) Drawings of the front and side doors at a scale of not less than 1:20 (general) and 1:1 (details)
  - f) The proposed front entrance steps and proposed piers at a scale of not less than 1:10
  - g) Details of all new sash windows and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections.
- Development shall be carried out in accordance with approved details.  
**Reason:** in order to ensure that the detail of the building hereby approved is complementary with neighbouring premises in the Round Hill Conservation Area and in order to comply with policies HE3 and HE6 of the Brighton & Hove Local Plan and policy CP15 of the Brighton & Hove City Plan Part One.
- 6 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 surfacing;
  - b) Details of all boundary treatments;
  - c) Details of all proposed planting, including numbers and species of plant, and details of size and
  - d) Planting method of any trees.

**Reason:** To ensure that the site is effectively landscaped in the interests of future occupiers and the quality of the street scene within the Round Hill Conservation Area and to comply with policy QD15 of the Brighton & Hove Local Plan.

- 7 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 QD1 and QD15 of the Brighton & Hove Local Plan.

- 8 Prior to first occupation of the development hereby permitted, dropped kerbs and tactile paving shall have been installed to the eastern and western footways on Roundhill Crescent at the junction of D'Aubigny Road.

**Reason:** To ensure that suitable footway provision made to and from the development and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

- 9 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 SU2 of the Brighton & Hove Local Plan and policy CP8 of the Brighton & Hove Submission City Plan Part One.

- 10 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 City Plan Part One.

- 11 No development shall take place until a scheme for nature conservation enhancement, which details the location and specification of bird boxes has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be fully implemented in accordance with approved details prior to the first occupation of the building and shall be retained thereafter.

**Reason:** To ensure that the scheme makes appropriate provision for ecological enhancements in the form of bird boxes in order to comply with policy CP10 of the Brighton & Hove City Plan Part One.

- 12 The window in the south elevation (dwg. 1415.P/121) of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such. The lower panes of the first floor east elevation window shall be obscure glazed and thereafter retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 13 The development hereby permitted shall not commence 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:** This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
- 14 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.
- 15 Development shall not commence until such time as the works to 101 Roundhill Crescent as itemised in the annotations to drawing P/122 approved in listed building consent reference BH2016/ 00753 have been implemented in full.  
**Reason:** The implementation of the itemised works is fundamental as the means by which to satisfy the requirement of para. 134 of the NPPF that harm to a heritage asset may be mitigated by the provision of public benefits.
- 16 The rooflight hereby approved shall be of a 'conservation' style and have steel or cast metal frames fitted flush with the adjoining roof surface and shall not project above the plane of the roof.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 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 The applicant is advised that the proposed highway works as sought by condition 8 should be carried out in accordance with the Council's current Standards and Specifications and under licence from the Streetworks team and should contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 293366).
- 3 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.
- 4 The water efficiency standard required under condition 10 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.
- 5 The applicant is advised that the scheme required to be submitted by Condition 13 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.

## **2 SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site is the rearmost part of the rear garden to 101 Roundhill Crescent, a 4 storey residential building comprising four flats on the corner (north-east quadrant) of Roundhill Crescent and D'Aubigny Road. The depth of the existing garden to the rear of 101 Roundhill Crescent is 18m. The far end of the garden is abutted by the flank wall of the house at 4 D'Aubigny Road. The proposed site boundary is the last 8.8m of this garden; back to front the site has a depth of 10.5m.
- 2.2 The property and related land is located within the Round Hill Conservation Area; 101 Roundhill Crescent is a Grade II Listed Building. Nos. 103 to 113 inc. Roundhill Crescent are also Listed (grade II). Round Hill Conservation Area is largely in residential use, with larger houses on Roundhill Crescent and Richmond Road, mostly now flats, and predominantly smaller individual family houses in the other roads. There is a noticeable incline on D'Aubigny Road and within the site down from north to south. Roundhill Crescent in front of the terrace at nos.101-113 slopes down from west to east, but there is no noticeable change of levels within the site.

- 2.3 Planning permission is sought for the erection of a two storey, three bedroom dwelling, including habitable roofspace. It would have a simple roof of a single front and rear plane with a gable to the south, facing 101 Roundhill Crescent.
- 2.4 The proposed building would directly abut the south facing flank wall of no. 4, D'Aubigny Road, a two storey house. Its rear elevation would be to the rear of those premises by 0.75m.; the rear elevation would virtually abut the boundary with 103 Roundhill Crescent. Its front elevation would have the same front building line as 4, D'Aubigny Road, being set back from the pavement by an average of 2.3m (the elevation is not quite parallel to the pavement). It would have a private garden adjoining its proposed south wall.
- 2.5 It might be noted that the plan form of the building is not wholly rectangular, the width of the rear elevation being 5.3m and the front elevation 6.2m. This has the effect that, whilst the proposed boundary between existing and proposed houses is parallel to the rear of no 101, the garden for the proposed house is narrower at the road frontage than the rear. This, main garden- at the side of the proposed house- would have an area of 27m<sup>2</sup>. The proposed house is not parallel to 101 Roundhill Crescent: the distance between proposed and existing buildings is 12.8m at the rear and 11.7m at the front. The proposed house would have a main front entrance accessed via two steps; there is a further proposed entrance door at the side- also accessed via two steps.
- 2.6 The existing 1.8m high boundary wall, of 'bungaroosh' construction, to D'Aubigny Road along the current garden is retained, bar the creation of a pedestrian entrance to the proposed house, where a gap of 1.85m would be created with new piers on either side to match those elsewhere in D'Aubigny Road. n.b. the removal of part of the wall is subject to a listed building consent application (BH2016/00753).
- 2.7 The accommodation proposed comprises two double bedrooms at first floor and a single bedroom within the roofspace. The proposal includes- on the rear elevation facing east- one ground floor level window to the kitchen/dining area and one first floor window to a bedroom. On the proposed south elevation, that facing 101 Roundhill Crescent, there is one window- a first floor bathroom window. The bedroom in the roofspace is lit solely by a single 'conservation rooflight' on the rear roof plane.
- 2.8 The architectural treatment seeks to mirror that of 4, D'Aubigny Road which it would join with a three sided front bay on both storeys but no other first floor fenestration. It is however a little wider than the existing house 6.2m as opposed to 5.9m. Architectural detailing is as in 4, D'Aubigny Road, for example the string course and the vermiculated keystones above each ground floor window and main door are replicated. The main walling material would be painted render, the roofing material would be blue/black slates and the windows would have white painted timber frames.
- 2.9 As D'Aubigny Road slopes noticeably from north to south the proposed building is on a lower level than 4, D'Aubigny Road, which it would abut. There is a very small proposed drop in proposed ground floor level (i.e. a small excavation) of

0.4m where the proposed and existing buildings join. Notably the line of the roof ridge is 0.65m lower than that of number 4. This is a variation on the previously refused scheme (BH2015/00322) and will be considered further below.

### 3 RELEVANT HISTORY

#### **BH2015/02786**

Erection of two storey, three bedroom dwelling. Refused 26/11/15 for these reasons (in synopsis):

Detrimental to character of immediate surroundings in the conservation area by siting, design height and detailing and impact on skyline;

Insufficient benefits to outweigh harm to conservation area & setting of listed building;

Alterations to western boundary wall out of keeping;

Partial loss of the wall unacceptable in absence of acceptable redevelopment scheme;

Roofspace bedroom unacceptable standard of accommodation;

Overlooking of 101 Roundhill Crescent from proposed south elevation windows; would appear oppressive viewed from garden of 103 Roundhill Crescent;

insufficient evidence of building accessibility.

#### **BH2015/02796**

Alterations to boundary wall Refused 26/11/15- loss of historic fabric unacceptable in absence of acceptable development scheme for site.

#### **BH2015/00322**

Erection of two storey building comprising x5 flats Refused 7/4/15

**BH2011/02420** - 101 Roundhill Crescent - Erection of shed and decked area to land to rear of 101 Roundhill Crescent. (Retrospective). Approved 20/10/2011.

**BH2011/02259** - 101B Roundhill Crescent - Listed Building Consent for erection of first floor side extension. Refused 12/10/2011.

**BH2011/02257** - 101B Roundhill Crescent - Erection of first floor side extension. Refused 12/10/2011.

### 4 PUBLICITY & CONSULTATIONS

#### 4.1 External

##### **Neighbours:**

**Nine (9)** letters of representation have been received from **101 (x2); 101a; 101b; 101c (x2); 101 basement; 94 and 94c Roundhill Crescent** supporting the application for the following reasons:

- 'Family' housing is welcomed and needed (contrasted unfavourably to 'student housing' by some respondents).
- The design is considered in keeping and is sympathetic to the character of D'Aubigny Road.
- It is a 'mirror' of the opposite side of the road.

- Surrounding roads are mostly 'unbroken terraces' without extensive gaps.
- 101 Roundhill Crescent would not be overlooked.
- Restoration improvements to 101 Roundhill Crescent are desirable.
- Consider that the reasons for refusal of the previous application are overcome

4.2 **Thirty (30)** letters of representation have been received from: **103 1st fl; 103 flat 1 (x2); 103a; 103 top flat (x2); 105; 105a; 107 flat 1; 107 flat 2 (x2); 107 flat 4 and 47 Roundhill Crescent; 1; 3 (x2); 4; 8 (x2) D'Aubigny Road; 112/114 (x2) and 33 Richmond Road; 6 and 13 (x2) Wakefield Road; 31 Crescent Road; 51 Upper Lewes Road; 9, Belton Road; 55, Princes Road and 19, Roundhill Street** objecting to the application for the following reasons:

- Loss of the gap between 101 Roundhill Crescent and 4 D'Aubigny Road and the long distance public views obtained through it; some references to mention of views in the Round Hill Conservation Area Character Statement. Some respondents comment that the Sainsbury's building within the existing view does not compromise it. Some comment that the smaller gaps at other similar locations within the conservation area are not comparable as the adjoining buildings are not listed.
- Loss of the green space that the existing garden provides in an area without public open space.
- Loss of the gap would detrimentally impact on the character of the Round Hill Conservation Area and would cause some harm.
- The proposed building would overshadow garden of 103 Roundhill Crescent and other Roundhill Crescent gardens reducing the enjoyment of the gardens and the ability to grow plants.
- Overlooking of and loss of privacy to 103 Roundhill Crescent.
- The 'restoration benefits' put forward should not be considered as balancing the planning impacts of the proposal. Considerations should not 'reward neglect'.
- Would increase parking pressures.
- With regard to the standard of accommodation for the proposed house the floor space is only just adequate, the garden is small and the third bedroom has a limited outlook.
- The proposal could set a precedent for development in gardens in conservation areas.
- Concern that the (listed) boundary wall between the application site and 103 Roundhill Crescent may be damaged during construction.

## 5 CONSULTATIONS

### 5.1 **Ecology:** No objection

East Sussex County Council Ecologist

No objection. Considers that the proposed development should not have an adverse impact on biodiversity and can be supported from an ecological perspective. The site offers opportunities for biodiversity enhancements that will help the Council address its duties under the Natural Environment & Rural Communities Act and NPPF (no specific condition is recommended).



## 5.2 **Conservation Advisory Group**

No objection. note that previous application for site was refused and that through the gap there is a view of the Lewes Road area, the cemetery and allotments and a view of Race Hill but considered that the predominant view is now the of Sainsbury's and that the proposal would help to screen that out and only marginally reduce the vista.

## 5.3 **Heritage: Comment**

Statement of Significance

101 Roundhill Crescent is Listed Grade II. It is a townhouse forming part of a terrace with nos. 103-113, built in the mid-19th century. Although Victorian in date it displays Regency detailing. No. 101 is the end of the terrace on the corner with D'Aubigny Road and differs from the others in that its front door is at the side in a side extension. The extension has been extended upward at first floor level over the original part and forwards at ground floor level. It is understood from the applicant that these date to at least the early 20th century. However the extensions are unsympathetic and poorly detailed. The front elevation retains its original sash windows apart from the central basement one which has been converted into an entrance door. It retains its stone first floor front balcony with cast iron railings in a scrolling foliage pattern. The rear and side elevations and the boundary wall are in relatively poor condition and would benefit from repair and maintenance.

5.4 The proposed development site forms the garden to 101 Roundhill Crescent with a boundary to D'Aubigny Road. It is located in the Round Hill Conservation Area and forms part of the curtilage and setting to the listed building. Historically it has always been open. It is larger than other gardens within the area, denoting the relative status of this property in relation to the more modest houses along D'Aubigny Road and elsewhere in the conservation area.

5.5 Round Hill Conservation Area is largely in residential use, with larger houses on Round Hill Crescent and Richmond Road (mostly now flats) and predominantly smaller individual family houses on the other roads. The area is notable for its hilly siting with distant views of the sea, downland and surrounding leafy areas framed by housing. Its hilly siting also means there are views towards the area from other parts of Brighton where it is characterised by houses stepping up the hill and separated by ribbons of green (the gardens to the houses). The green ribbons are indicative of the former use of this area for laundries. There are no public green spaces in the area; glimpsed views of private green spaces and views to downland/open land further afield provide relief to the dense urban form. The break between the end of terraces at road junctions also provide a break in urban form and thus contribute to this relief.

## 5.6 **The Proposal and Potential Impacts**

The proposal is to construct a new single dwelling within the existing garden to no.101 Roundhill Crescent; it follows previously refused applications for construction within the garden.

- 5.7 The garden currently retains the original plot size to 101 Roundhill Crescent. It forms the primary curtilage of this listed building and an important part of its setting. Its plot size provides an appropriate amount of space around the building which complements the scale of the building and reflects its status. It historically has always been open. The loss of the open space causes some harm to the setting of 101 Roundhill Crescent.
- 5.8 The break in building line, visible private open space of the gardens to 101-113 Roundhill Crescent and distant views to open land (allotments up to Warren Road) on the distant skyline are visible from D'Aubigny Road. They provide relief to the dense urban form and are a visual public amenity. Such visual public amenities are considered important to the character of the conservation area as described in the Round Hill Conservation Area Character Statement. The space therefore contributes to the character of the conservation area, and its loss would cause some harm to the character of the conservation area. It is acknowledged that the proposal is reduced in width from the original refused scheme and allows for the retention of a significant gap. This allows much of the view to still be appreciated within the street scene, although in a much narrower gap. A photo montage has been provided to confirm that the retained gap allows for a break in the roofline/building line when viewed obliquely from Roundhill Crescent, which also relieves the built form. This therefore minimises the level of harm caused.
- 5.9 The proposed new dwelling is detailed to be generally in keeping with the architectural style of the neighbouring Victorian housing. It is designed to form a pair with the neighbouring number 4, D'Aubigny Road. It is particularly important to ensure the building is well detailed such that this approach is effective.
- 5.10 The proposed development has been amended from the last scheme such that it now follows the established building line to the east side of D'Aubigny Road. It is also stepped down in height from the neighbouring 4 D'Aubigny Road, in order to follow the topography more accurately and remain subservient in the street scene. This is appropriate.
- 5.11 The building has been designed to exactly match the detailing to 4 D'Aubigny Road. A condition should be attached to any approval to ensure this is the case, with large scale details also required.
- 5.12 The front boundary arrangement including lowered wall and piers to match original designs on D'Aubigny Road is appropriate. It is acknowledged that the size of piers differs between the properties along the road, relative to the scale of property. It appears the proposed match the smaller houses to the west side of the road and upper part of the east side. This is appropriate, subject to large scale details. Details will also be required of the steps, dwarf wall to the steps, lowered boundary wall (with coping) and the additional proposed bungaroosh wall.
- 5.13 The windows have been appropriately amended to well-proportioned timber hung sash windows. It would be appropriate for the front door and side door to

be recessed to match the reveals to the existing door to number 4. The lowest section of glazing to the side door would appropriately be solid.

- 5.14 The LPA has a statutory duty to preserve listed buildings and their settings, and to preserve and enhance the character or appearance of conservation areas-Planning (Listed Buildings and Conservation Areas) Act 1990 sections 16, 66 and 72). The proposal does cause some harm to the setting of the listed building and the character/appearance of the conservation area. Paragraph 132 of the NPPF requires great weight to be given to the conservation of heritage assets.
- 5.15 In terms of the NPPF, the proposal is considered to cause less than substantial harm to the conservation area and listed building.
- 5.16 Where a development would lead to less than substantial harm, para.134 of the NPPF allows the public benefits of the proposal to be weighed against the harm. Policy HE4 of the Local Plan is complementary to such an approach. The application sets out a number of proposed improvements to the main listed building (including walls). Some of these constitute repairs to the building; the owner has a general responsibility to maintain their listed building in good condition and thus the 'public benefit' of such work can only be considered to limited extent against the harm of the proposal. A number of works involve reinstatement and improvement to the building; the public benefit of these works can be considered against the harm of the proposal to a greater extent.
- 5.17 The following works are proposed:
- Painting of the flank and rear walls.
  - Rationalised pipework, painted to match the walls.
  - Reinstatement of the cast iron window guards to match 103.
  - Reinstatement of missing areas of red clay pavers to the basement lightwell and encaustic tiles to main pathways/steps (dependent on amount of reinstatement required).
  - Replacement ground floor door to match door to number 103.
  - Small shed painted dark green with imitation turf removed.
  - Decking and summerhouse removed
  - Improved planting scheme
  - Improvements to side gates and adjacent walls.
  - Improved design to the rear basement lightwell railings.
  - Improvements to first floor rear door, including removal of the fanlight.

The Heritage Team have also identified further works over and above those proposed that would improve 101 Roundhill Crescent in historic buildings terms.

**5.18 Arboriculture**

No objection. Notes that there are no trees or vegetation on the site itself, or the streets surrounding the development. Notes that there are one or two shrubs behind flint walls in neighbouring properties that should not be affected by the proposed development.

5.19 **Sustainable Transport:** No objection

No objection. Considers no on site car parking required as the site has good accessibility by sustainable means and where overspill parking is constrained by the surrounding Controlled Parking Zone. Seeks condition to secure cycle storage as proposed and a condition to secure off site works, viz. dropped kerbs and tactile paving at the eastern and western footways on Roundhill Crescent at the junction of D'Aubigny Road.

**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
- CP1 Housing delivery
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP12 Urban design
- CP13 Public streets and spaces
- CP14 Housing density
- CP15 Heritage

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

- TR7 Safe Development
- TR14 Cycle access and parking
- QD5 Design - street frontages
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development

HO13 Accessible housing and lifetime homes  
HE1 Listed buildings  
HE3 Development affecting the setting of a listed building  
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD09 Architectural Features

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the principle of development, design and appearance including the impacts on the adjoining listed buildings and Round Hill Conservation Area; impacts on the amenities of adjoining occupiers; the standard of accommodation for future occupiers; landscaping; sustainable transport issues; ecology and biodiversity and sustainability of the proposal.
- 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:**  
City Plan Part One policy SS1 sets out policy in pursuance of the 'presumption in favour of sustainable development' set out in the NPPF. It states that the City Council will work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. The policy further says that the strategy needs to balance accommodating the city's development needs, including homes, with the need to protect and enhance the city's high quality environments. This application is an example of where this balance is the essential determinant in the application.
- 8.4 The policy also promotes the efficient use and development of land/sites across the city including higher densities in appropriate locations. It should however be noted that the policy seeks that the 'majority of new housing... will be located on brownfield sites' and that the NPPF excludes private residential gardens from its definition of 'previously developed' or brownfield land. The City Council has not however, as the NPPF allows, elected to adopt a policy making a presumption against development in residential gardens.

- 8.5 Whilst it is not considered that strategic policy is balanced one way or the other in relation to this proposal, it might be noted that the City Plan Part One policy CP1 'Housing Delivery' relies, in its housing delivery targets, on 'windfall' sites making up 1250 units in the 20 year plan period. The policy notes that 'small windfall site development, will contribute towards meeting the planned housing requirements of the city and ongoing five year supply requirements'.
- 8.6 In addition to the general policy planning considerations, because the proposal affects the setting of 101 Roundhill Crescent as a (grade II) listed building, the Council must have special regard to 'the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.' The Heritage Team comments have been made in that context.
- 8.7 **Design and Appearance:**  
Taking the consideration of the appearance of the building aside from the issues related to the gap between 101 Roundhill Crescent and 4 D'Aubigny Road, the Heritage Team have identified that it is designed to appear as a pair with no. 4 (bearing in mind that no. 4 is attached to no.6 which it does not mirror). Importantly, in relation to the previously refused scheme, its roof steps down in height, following the topography as opposed to continuing the ridge line at the same height and following the front building line where the previous scheme protruded 0.5m in front of it. It is considered that the appearance of the building per se is acceptable in relation to the character of the conservation area.
- 8.8 City Plan Part One policy CP14 'Housing Density' introduced housing density as a consideration, seeking that housing densities be appropriate to the identified positive character of the neighbourhood and setting out criteria for permitting housing at densities higher than those typically found in the area. It generally seeks a minimum of 50 dph (dwellings per hectare). Densities in the immediate surroundings of the application premises, using this measurement vary considerably, in large part because there is a mix of single dwellings and flatted development. The existing density for the application site i.e. the existing flats in relation to the plot size is (approximately) 106 dph; the proposed house would raise the density to 141 dph. For comparison a small house in a small plot on D'Aubigny Road is 111 dph and the flatted development opposite the premises- 99 Roundhill Crescent is 280 dph. In that context the proposed density cannot be said to be atypical and does not fall to be tested against the criteria for consideration of higher than locally typical densities set out in this policy.
- 8.9 City Plan Policy Part One policy CP12 Urban Design sets out a series of criteria for the consideration of design issues, mainly in the context of a future 'Urban Design Framework'. It might be noted that criterion 6 seeks to 'protect or enhance strategic views into, out of or within the city.' and that many of the respondents have referred to the views that may be obtained over the application site from D'Aubigny Road. Whilst the space between 101 Roundhill Crescent and 4 D'Aubigny Road might be considered in other contexts- such as the setting of the listed building, it is not a strategic view and the view is not per se accorded strategic policy protection.

- 8.10 City Plan Part One policy CP12 further advises that until the intended Urban Design Framework and City Plan Part One are published that the Council's Urban Characterisation Study (2009) will assist the 'consideration of backland or infill developments'. The Study is descriptive rather than prescriptive- in describing the Round Hill area it notes, inter alia ' a strong building line' and that the area 'affords good views out towards the Downs and back towards the sea and to local landmarks.'
- 8.11 There is more comment on views in the Round Hill Conservation Area Statement which notes that the conservation area is notable for its hilly setting with long terraces of houses framing distant views of the sea to the south and of the downs to the east. In this case the views are the downs to the east only. It should also be noted that views across the development site are only obtained when directly facing the site. The Round Hill Conservation Area Statement picks out two 'vistas' it considers to be 'of note' which are 'down Crescent Road and along Wakefield Road.' It might be noted that although clearly the proposal would close part of the existing gap between buildings that there is a further view to the Downs from D'Aubigny Road opposite the site, looking south of 101 Roundhill Crescent.
- 8.12 The Heritage Team have come to the view that the differences between the current and previous schemes, as detailed in their consultation response, are such that in terms of the conservation area and listed building consent aspects that harm caused is less than substantial. As far as the loss of part of the gap between 101 Roundhill Crescent and 4, D'Aubigny Road is concerned there is no general policy protection of non-strategic views. In practice the view is lost in part, not wholly and from the best viewing position of the gap- on the opposite side of D'Aubigny Road there remains a downland view to the south of 101 Roundhill Crescent. It might be noted that from such a viewing position that much of part of the view that is lost would be that of the Sainsbury's supermarket in the middle ground. In conclusion it is not considered that the loss of the space between buildings should, of itself, constitute a reason for refusal.
- 8.13 **Landscaping:**  
The submitted plans show the provision of a garden to the side of the proposed dwelling, separated from the retained garden area for 101 Roundhill Crescent. No details of any landscaping for this proposed external amenity area are shown on the plans submitted, however it is considered that full landscaping details could be secured via condition.
- 8.14 The Council's Arboriculturist has assessed the application and raised no objections; it is considered that the shrubs/tree located in neighbouring gardens should not be affected by the proposed development.
- 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 The relationships of particular consequence in terms of amenity are those with 101 and 103 Roundhill Crescent. It has been noted that unlike the previous application whose rear building line was flush with the rear of 4 D'Aubigny Road that the current application is 0.75m to its rear. That depth is not considered to give rise to a substantive loss of amenity to those premises.
- 8.17 It may be noted that overlooking (of specifically 101 Roundhill Crescent) from a window in its proposed south elevation was a reason for refusal of the earlier application. In that case the window appeared to be to a bedroom. In the current application there remains one first floor window on the south elevation but it is clearly to a bathroom. To ensure that this would be obscure glazed a condition to that effect is recommended. In that circumstance it is considered that there would be no overlooking. Whilst there are windows proposed in the rear, east, elevation the relationship with habitable space in the Roundhill Crescent premises is oblique and the flats themselves would not be overlooked.
- 8.18 Policy QD27 states that planning permission for any development 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.
- 8.19 The relationships of particular consequence in terms of amenity are those with 101 and 103 Roundhill Crescent. It has been noted that unlike the previous application whose rear building line was flush with the rear of 4 D'Aubigny Road that the current application is 0.75m to its rear. That depth is not considered to give rise to a substantive loss of amenity to those premises.
- 8.20 It may be noted that overlooking (of specifically 101 Roundhill Crescent) from a window in its proposed south elevation was a reason for refusal of the earlier application. In that case the window appeared to be to a bedroom. In the current application there remains one first floor window on the south elevation but it is clearly to a bathroom. To ensure that this would be obscure glazed a condition to that effect is recommended. In that circumstance it is considered that there would be no overlooking. Whilst there are windows proposed in the rear, east, elevation the relationship with habitable space in the Roundhill Crescent premises is oblique and the flats themselves would not be overlooked.
- 8.21 The previous application was also refused on grounds of the impact on properties to the east in Roundhill Crescent in terms of its scale, bulk and massing close to the boundary being overbearing and oppressive 'when viewed from the garden areas of neighbouring properties' . The current application is different from the previous one, in terms of building envelope, only in terms of height. This would lessen the impact of the building on both aspects of this reason for refusal but clearly there is some impact. It might be noted that the application plot is to the north of these gardens and would not affect sunlighting or daylighting to those gardens. It also might be compared with the relationship between the building on the other side of the junction- 99 Roundhill Crescent



and the building whose flank the rear faces- 1 D'Aubigny Road: here the distance is 5m whereas the distance between the proposed house and the main rear wall of 103 Roundhill Crescent is 12.5m. It is considered that protecting- specifically a view from gardens- in these circumstances would be difficult were there to be an appeal against a refusal on these grounds.

8.22 **Standard of Accommodation**

The City Council has a general policy on amenity for future residents set out in policy QD27 of the Brighton & Hove Local Plan but without specific space standards. The proposed house contains two double bedrooms at first floor and a single bedroom in the roofspace. The gross internal floorspace proposed is 98.2m<sup>2</sup>. The Council has not, at this stage, adopted the optional 'Technical Standards for Housing' published by the DCLG but for comparison the standard for the amount of accommodation proposed over three levels is 99m<sup>2</sup>. The size of the unit is considered adequate for the amount of accommodation proposed.

8.23 The Council's general approach to the provision of outdoor amenity space for housing is set out in policy HO5 of the Brighton & Hove Local Plan which seeks private useable amenity space where appropriate. It is considered that garden space should be provided for a 3 bedroomed house in this inner suburban location. The 27.5m<sup>2</sup> garden to the side of the proposed house is considered small but not to the extent that the application should be refused on these grounds.

8.24 Windows are arranged such that each room has at least one window. An exception to this is the third bedroom which has only a (conservation) rooflight, on the rear roof plane. Whilst this may provide adequate lighting for the room there would be limited outlook from this room. This is a deficiency and may be symptomatic of the applicant seeking to provide fenestration that would avoid overlooking and for heritage reasons. Although outlook is limited the room comprises secondary accommodation with the rest of the proposed dwelling providing adequate outlook and the accommodation is overall acceptable

8.25 **Sustainable Transport:**

Policy CP9 of the Brighton & Hove City Plan Part One seeks to transfer people and freight to sustainable forms of transport and advises that subsequent guidance will, inter alia, put a priority on minimising off-street car parking in accessible locations. Policy TR7 of the Brighton & Hove Local Plan requires that new development does not increase the danger to users of adjacent pavements, cycle routes and roads. No off-street parking provision is proposed as part of the development. The site is located in an area with good accessibility by sustainable modes and where overspill parking would be constrained by the presence of the existing Controlled Parking Zone. In the circumstances a car-free development is considered acceptable.

8.26 The creation of an additional residential unit is likely to lead to a small uplift in trips to and from the site. In order to comply with policies of the Brighton & Hove Local Plan, a contribution is sought towards pedestrian improvements which would include dropped kerbs and tactile paving at the junction of Roundhill

Crescent and D'Aubigny Road. Such improvements would ensure safe and attractive walking routes are provided to and from the proposed development.

- 8.27 The plans submitted show the provision of covered and secure cycle storage, for two cycles, within the south-western section of the site. Such provision is considered consistent with the minimum standards as set out in SPG04 and in accordance with policy TR14 of the Brighton & Hove Local Plan. The provision of such facilities can be ensured via a condition.
- 8.28 **Ecology/Biodiversity**  
It is noted that a Site of Nature Conservation Importance (SNCI) lies approximately 140m to the east of the site (Woodvale, Extra-mural and Downs Cemeteries) however due to the location, scale and nature of the proposal it is considered unlikely that the proposal would have any adverse impacts on this nearby SNCI and its nature conservation value.
- 8.29 The site currently comprises outbuildings, hardstandings, amenity grassland and flowerbeds, which are considered to be of low ecological value. As such the County Ecologist considers that the site is unlikely to support any protected species and therefore no mitigation measures are required.
- 8.30 It is considered that the proposal offers opportunities for ecological/biodiversity enhancements to be made at the site such as the use of species of known value to wildlife within a landscaping scheme and the provision of bird boxes and a condition is recommended requiring details of such biodiversity enhancement measures.
- 8.31 **Sustainability:**  
In order to comply with policy CP8 of the City Plan Part One the proposed development is required to comply with energy and water efficiency standards, which can be ensured via conditions.
- 8.32 The plans submitted do not show the provision of refuse and recycling facilities for the proposed unit however it is considered that there is adequate space on site for such provision, an issue which can be ensured via the attachment of a condition.
- 8.33 **Conclusion:**  
It is considered that the impact of the proposed development on the listed building at 101 Roundhill Crescent and on the Round Hill Conservation Area is one that, in historic environment terms, causes some harm but that such harm is less than substantial. Where that is the case the NPPF states that the harm should be weighed against the public benefits of the proposal, including securing its optimum use.
- 8.34 Government planning guidance advises that such public benefits could be anything that delivers economic, social or environmental progress.' Public benefits which the proposal would create directly are the additional residential accommodation that it represents and the works to improve pedestrian facilities at the Roundhill Crescent/D'Aubigny Road junction that recommended condition

15 seeks. In addition, as listed in the comments by the Heritage Team, some of the works to the existing 101 Roundhill Crescent are regarded as improvements rather than general repairs (which are part of the general responsibility that the owner has to maintain their listed building). In order that the works of improvement are carried out, a condition is proposed linking the implementation of the planning permission recommended here with the implementation of the works set out the concurrent listed building consent application (ref. BH2016/00753) prior to the commencement of development on site.

- 8.35 In addition to the heritage issues discussed above there are amenity issues in relation to the impact on neighbouring properties. The height of the building has been lowered, albeit by a small amount (to reflect the topography of D'Aubigny Road) in relation to the previous application and the reasoning for the refusal of the previous application- being the impact of the view from gardens in Roundhill Crescent- would of itself not be a strong reason for refusal. The building to building distances in relation to new and existing buildings are not unusual for an inner suburban location and would remain better than that between 99 Roundhill Crescent and 1 D'Aubigny Road.
- 8.36 In conclusion, with the appropriate conditions to mitigate amenity impacts on neighbouring properties and secure the benefits which balance the 'less than substantial harm' which the proposal would cause, it is considered that the application could be approved.

## **9 EQUALITIES**

- 9.1 The topography of the site and the conservation area location militate in favour of a front stepped access. Therefore, it is not possible to provide level access to the front door of the new house.



# **ITEM E**

**101 Roundhill Crescent, Brighton**

**BH2016/00753  
Listed Building**

**DATE OF COMMITTEE**



# BH2016/00752 101 Roundhill Crescent, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**





<b><u>No:</u></b>	<b>BH2016/00753</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Listed Building Consent</b>		
<b><u>Address:</u></b>	<b>101A Roundhill Crescent, Brighton, BN2 3GP (101 Roundhill Crescent Brighton)</b>		
<b><u>Proposal:</u></b>	<b>External alterations including repair works, alterations to boundary wall including installation of a new gate, reinstatement of cast iron window guards to second floor windows, alterations to fenestration and associated works.</b>		
<b><u>Officer:</u></b>	Mark Dennett, tel: 292321	<b><u>Valid Date:</u></b>	05.04.2016
<b><u>Con Area:</u></b>	ROUND HILL	<b><u>Expiry Date:</u></b>	31.05.2016
<b><u>Listed Building Grade:</u></b>	Grade II		
<b><u>Agent:</u></b>	ZSTA 3 Dorset Place Brighton BN2 1ST		
<b><u>Applicant:</u></b>	Ms Wendy Jamieson 101 Roundhill Crescent Brighton BN2 3GP		

This application was deferred from Committee on the 14 September 2016 to allow Members to carry out 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** Listed Building Consent subject to the following Conditions and Informatives.

1 The works hereby permitted shall be commenced before the expiration of three years from the date of this consent.

**Reason:** To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2 No works shall take place until the following have been submitted to and approved in writing by the Local Planning Authority:

- a) Drawings of the proposed rear basement and rear first floor replacement doors at a scale of not less than 1:20 (general) and 1:1 (joinery sections)
- b) Drawings of the rear brick wall pillars and railings proposed to adjoin the rear lightwell and lightwell bridge at a scale of not less than 1:10
- c) Samples of the render proposed for the works to the walls adjoining the 'inner side walls' as annotated on drawing P/152.

The works shall be carried out in accordance with approved details.

**Reason:** in order to ensure that the detail of the proposed works hereby approved is complementary to this listed building and in accordance policies HE1 and HE4 of the Brighton & Hove Local Plan and policy CP15 of the Brighton & Hove City Plan Part One.

3 The paint colour for the proposed painting of the rear elevation and side elevation to D'Aubigny Road shall exactly match the paint colour of the front elevation.

**Reason:** In order to ensure that the painting of the side elevation matches the front elevation and in accordance with policy HE1 of the Brighton & Hove City Local Plan and Brighton & Hove City Plan Part One.

- 4 The proposed replacement front door, as illustrated on drawing P/152, shall match in all respects the front door to 103 Roundhill Crescent.  
**Reason:** In order that the replacement front door is complementary to original front doors in the listed terrace 101-113 (odds) Roundhill Terrace, of which the application premises forms part and in accordance with policy HE4 of the Brighton & Hove Local Plan and policy CP15 of the Brighton & Hove City Plan Part One.

Informatives:

1. This decision is based on the drawings listed below:

Plan Type	Reference	Version	Date Received
Location Plan	1415.P002		1 March 2016
Block Plan	1415.P005		1 March 2016
Floor Plans Proposed	1415.P150	A	1 March 2016
Elevations Proposed	1415.P151	A	1 March 2016
Elevations Proposed	1415.P152		1 March 2016
Large Scale Details	1415.P153		1 March 2016

- 2 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.
- 3 This decision to grant Listed Building Consent 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 proposals as a whole have a positive impact on the character of the listed building at 101 Roundhill Crescent and the Round Hill Conservation Area.

**2 SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site is the rearmost part of the rear garden to 101 Roundhill Crescent, a 4 storey residential building comprising four flats on the corner (north-east quadrant) of Roundhill Crescent and D'Aubigny Road. The depth of the existing garden to the rear of 101 Roundhill Crescent is 18m. The far end of the garden is abutted by the flank wall of the house at 4 D'Aubigny Road. The proposed site boundary is the last 8.8m of this garden; back to front the site has a depth of 10.5m.

- 2.2 The property and related land is located within the Round Hill Conservation Area; 101 Roundhill Crescent is a Grade II Listed Building. Nos. 103 to 113 Roundhill Crescent are also Listed. Round Hill Conservation Area is largely in residential use, with larger houses on Roundhill Crescent and Richmond Road, mostly now flats, and predominantly smaller individual family houses in the other roads. There is a noticeable incline on D'Aubigny Road and within the site down from north to south. Roundhill Crescent in front of the terrace at nos.101-113 slopes down from west to east, but there is no noticeable change of levels within the site.
- 2.3 Listed building consent is sought for alterations to the boundary wall to D'Aubigny Road which comprise the removal of a 1.85m length of it in order to create a pedestrian access to the proposed house at the rear (application ref. BH2016/00752). Additionally the height of that part of the boundary wall between this access point and the boundary with 4 D'Aubigny Road, a length of 3.7m would be lowered by between 0.7 and 1m. The gate in the same wall just behind 101 Roundhill Crescent would be replaced by a 1.7m timber gate (there is an existing (20th c) gate of approximately 1m. The cast iron 'window guards' that would have originally been atop the windowsills of the three second floor front elevation windows are proposed to be replaced (these are present on other premises in the terrace). The stuccoed flank wall of the building to D'Aubigny Road will be painted.
- 2.4 The applicant additionally proposes a number of works of repair and restoration which do not of themselves require listed building consent.

### 3 RELEVANT HISTORY

**BH2015/02786** Erection of two storey, three bedroom dwelling. Refused 26/11/15

**BH2015/02796** Alterations to boundary wall Refused 26/11/15- for reason of loss of historic fabric unacceptable in absence of acceptable development scheme for site.

**BH2015/00322** Erection of two storey building comprising x5 flats Refused 7/4/15

**BH2011/02420** 101 Roundhill Crescent - Erection of shed and decked area to land to rear of 101 Roundhill Crescent. (Retrospective). Approved 20/10/2011.

**BH2011/02259** 101B Roundhill Crescent - Listed Building Consent for erection of first floor side extension. Refused 12/10/2011.

**BH2011/02257** 101B Roundhill Crescent - Erection of first floor side extension. Refused 12/10/2011.

### 4 REPRESENTATIONS

- 4.1 **One (1)** letters of representation have been received from **101 Roundhill Crescent** supporting the application for the following reasons: the alterations to the wall and 101 Roundhill Crescent can only serve as an improvement to this historic building.
- 4.2 **One (1)** letter of representation has been received from **4 D'Aubigny Road** objecting to the application for the following reasons: the wall is part of the heritage of the area and should not be lowered or cut into; will be detrimental to the character of the area; will make respondent's property vulnerable to intruders and notes that the view across back gardens to Elm Grove is a key part of the conservation area.

## **5 CONSULTATIONS**

- 5.1 **Heritage:** 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  
CP15 Heritage

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

HE1 Listed Building Consent  
HE4 Reinstatement of original features on Listed Buildings

Supplementary Planning Guidance:

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main consideration in the determination of this application relates to the effect of the proposals on the character of the host listed building at 101 Roundhill Crescent.
- 8.2 Design:  
The proposed works are those to the wall to D'Aubigny Road as detailed above plus:
- Painting of the flank and rear walls.
  - Rationalised pipework, painted to match the walls.
  - Reinstatement of the cast iron window guards to match 103.
  - Reinstatement of missing areas of red clay pavers to the basement lightwell and encaustic tiles to main pathways/steps (dependent on amount of reinstatement required).
  - Replacement ground floor front door to match door to number 103.
  - Improvements to side gates and adjacent walls.
  - Improved design to the rear basement lightwell railings.
  - Improvements to first floor rear door, including removal of the fanlight.
- 8.3 In addition to these works requiring listed building consent it is also noted that it is proposed that decking and summerhouse and a small shed in the existing garden will be removed and that an improved planting scheme would be provided.
- 8.4 The NPPF requires that when determining applications for listed building consent that the local planning authority take account of the desirability of sustaining and enhancing the significance of the heritage assets. These works are considered desirable works of enhancement.
- 8.5 The removal of a short length of the existing 'bungaroosh' wall along D'Aubigny Road is not integral to the significance of the listed building and that part immediately adjoining 101 Roundhill Crescent is retained. It should be noted that listed building consent application BH2015/02796 for like alterations to this wall (no other listed building works were included) was refused but only for the reason that it was not justifiable in the absence of an acceptable scheme for development of the site. As the planning application concurrent with this listed building consent (BH2016/00752) is recommended for approval the circumstances are changed and it is not considered that the works proposed to the wall are unacceptable.
- 8.6 In addition to the merits of the works under consideration per se they are also of consequence in the consideration of the concurrent planning application for the erection of a house at the rear of 101 Roundhill Crescent. In the report on that

application it is concluded that the proposal is one that, in historic environment terms, causes some harm but that such harm is less than substantial. Where that is the case the NPPF states that the harm should be weighed against the public benefits of the proposal, including securing its optimum use. In addition to the benefit of the proposed residential accommodation and nearby highway improvements sought by condition, works forming part of this listed building consent application are regarded as improvements rather than general repairs (which are part of the general responsibility that the owner has to maintain their listed building). In order that the works of improvement are carried out, a condition is proposed for the planning application linking the implementation of the planning permission recommended here with the implementation of the works set out the concurrent listed building consent application (ref. BH2016/00753) prior to the commencement of development on site.

## **9 CONCLUSION**

- 9.1 The proposals as a whole are positive in the context of the character of the listed building at 101 Roundhill Crescent and as such are welcomed. The alterations to the boundary wall to D'Aubigny Road are the minimum required in order to gain access to the house proposed in the concurrent planning application and whereas listed building consent was refused (BH2015/02796) for like works on the grounds that they were not acceptable in the absence of an approved scheme for the development of the site, that is no longer the case, if concurrent BH2016/00752 is approved it is thus recommended that listed building consent be granted.

## **10 EQUALITIES**

- 10.1 None identified

# **ITEM F**

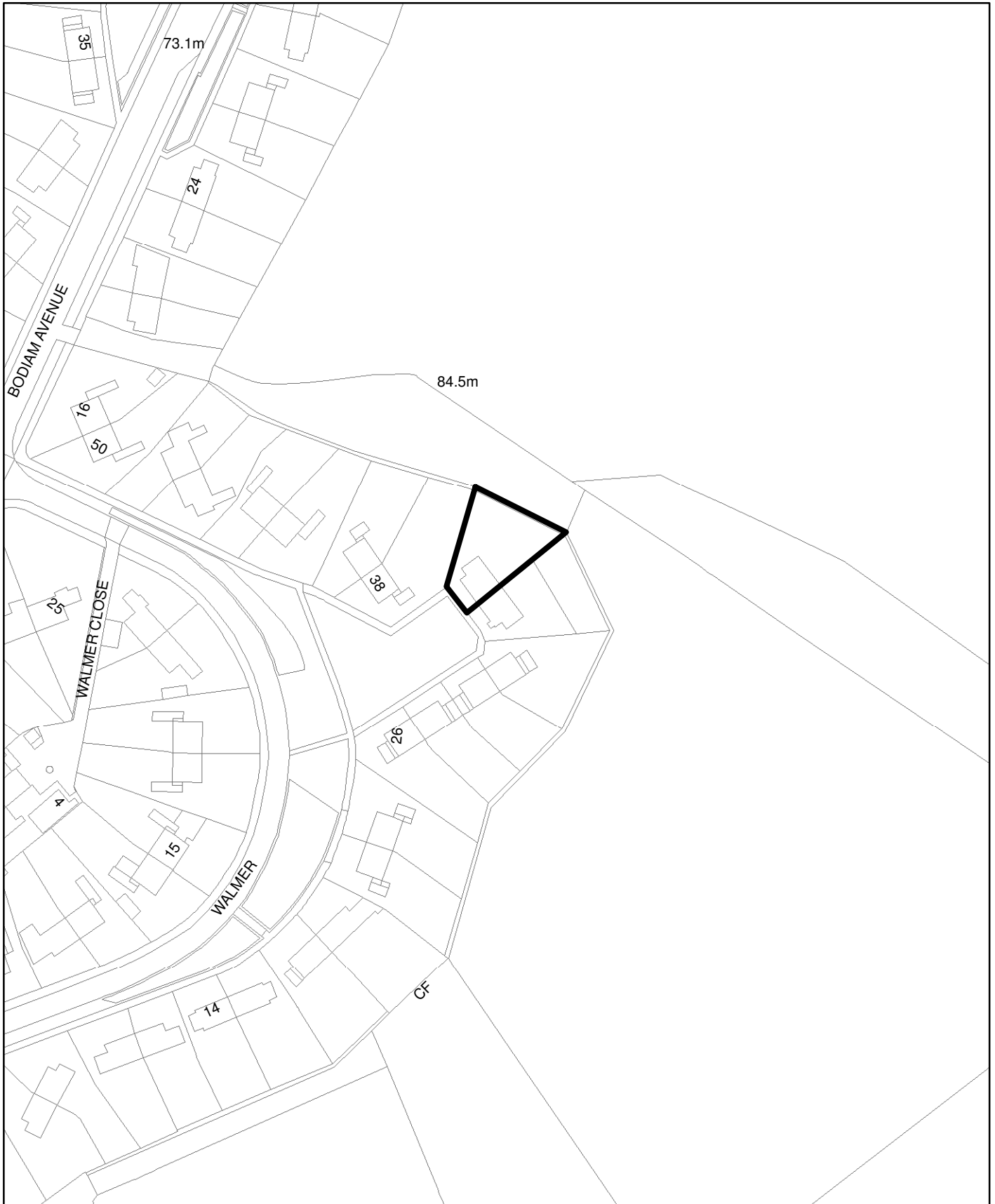
**34 Walmer Crescent, Brighton**

**BH2016/02229  
Full Planning**

**DATE OF COMMITTEE**







**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2016/02229</b>	<b><u>Ward:</u></b>	<b>Moulsecoomb And Bevendean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>34 Walmer Crescent, Brighton, BN2 4LR</b>		
<b><u>Proposal:</u></b>	<b>Change of use from single dwelling house (C3) to four bedroom small house in multiple occupation (C4).</b>		
<b><u>Officer:</u></b>	Stewart Glassar, tel: 292153	<b><u>Valid Date:</u></b>	18.07.2016
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	29.08.2016
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>			
<b><u>Applicant:</u></b>	Mr Jay Figures 34 Walmer Crescent Brighton BN2 4LR		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor Plans Proposed	FIRST FLOOR PLAN		18 July 2016
Floor Plans Proposed	GROUND FLOOR PLAN		18 July 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 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.
- 4 The development hereby approved shall be implemented in accordance with the details shown on the ground floor layout drawing received on 18 July 2016 and

shall be retained as such thereafter. The ground floor rooms annotated as kitchen/diner and lounge shall be retained as communal space and shall not be used as a bedroom at any time.

**Reason:** to ensure a suitable standard of accommodation for occupiers 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 2 storey semi-detached property, located in a small crescent at the eastern end of Lower Bevendean. The property backs onto open land and adjoins the South Downs National Park. The house is set back from Walmer Crescent, with a large grassed area and footpath in front of the house. The property has an existing front porch and side extension, and is bordered by a front boundary wall with pillars.
- 2.2 The neighbouring properties are all in residential use and the character of the area is residential.
- 2.3 Planning permission is sought for the change of use from four bedroom single dwelling (C3) to four bedroom small house in multiple occupation (C4).

## **3 RELEVANT HISTORY**

**BH2015/04608** - Change of use from single dwelling house (C3) to three bedroom small house in multiple occupation (C4). Approved 29/03/2016.

**BH2014/00620** - Erection of porch with pitched roof and rooflights to replace existing with associated alterations to front boundary wall. Approved 02/05/2014.

## **4 REPRESENTATIONS**

- 4.1 **Four (4)** letters have been received from **28 & 36 Walmer Crescent, 80 Plymouth Avenue, 64 Ewhurst Road**, objecting to the proposed development for the following reasons:

- Potential noise and environmental disturbance
- Inadequate provision of car parking and consequential impact on street parking
- Increased traffic congestion
- Loss of family housing and community cohesion
- Impact on schools, health facilities and local facilities due to loss of family accommodation

- Too many HMOs in the area already

4.2 **Councillor Yates** has objected. A copy of the letter is attached to the report.

## 5 CONSULTATIONS

5.1 **Sustainable Transport:** No objection

5.2 **Environmental Health:** No Comments received

## 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 housing and Housing in Multiple Occupation

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

TR4 Travel plans

TR7 Safe Development

TR14 Cycle access and parking

SU10 Noise Nuisance

QD27 Protection of amenity

Supplementary Planning Guidance:

SPD14 Parking Standards

## **8 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application are considered to be: the principle of the change of use, any impact upon neighbouring amenity, the standard of accommodation which the use would provide and any transport issues.

### **8.2 Principle of development:**

The development is a change of use from a Class C3 (dwelling) to a Class C4 Use (House in Multiple Occupation) (HMO) which allows accommodation for up to 6 unrelated individuals who share basic amenities including a kitchen and bathrooms although in this instance the applicants have indicated that there would be 4 individuals sharing the property.

8.3 Policy CP21 of the Brighton and Hove City Plan 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 new build HMO, and 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 This property was recently granted permission for a change of use to a House in Multiple Occupation (HMO). The applicants described the proposal as a change of use to a three bedroom house in multiple occupation. The application met the relevant tests required by Policy CP21 and was duly granted permission. However, the applicants did not realise that in describing the proposal as a change of use to a three bedroom house in multiple occupation they were unintentionally self-limiting the extent of the permission to three bedrooms despite intending to use the lounge as a fourth bedroom.

8.5 Therefore the principle of using this property as an HMO has previously been accepted and this application does not add to the number of HMOs within a 50m radius of the property. (It is noted that a mapping exercise confirms that the situation has not changed since the previous application was approved in May 2016. Accordingly there is no objection to the principle of the use.

### **8.6 Standard of accommodation:**

The existing accommodation comprises a kitchen/diner, family room, shower/WC and living room on the ground floor and three bedrooms and bathroom on the first floor.

8.7 The application proposes to utilise the lounge as a fourth bedroom.

- 8.8 The three existing bedrooms are all considered to be of good size (at least one is large enough to be a double bedroom) with good levels of natural light and outlook. The existing lounge is large enough to act as a double bedroom and being at the front of the house benefits from good natural lighting and outlook.
- 8.9 The communal areas are similarly considered to be appropriate in size for the number of occupants. The kitchen/diner has good circulation space with sufficient room to allow all the occupants to be seated at the same time or some to be seated and some to be preparing food. The dining area contains a table with 6 chairs and a two seater sofa. The adjacent room to the kitchen/diner provides an additional lounge, which is separate and although small, provides a further communal area that could accommodate seating, television etc.
- 8.10 In view of the above, the standard of accommodation is considered acceptable.
- 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 Class C4 uses allow up to 6 unrelated persons residing within the property although the layout and proposed accommodation for this property accords with the applicant's intention to accommodate up to 4 persons. The existing Class C4 permission for the property currently allows it to be used by up to 6 people albeit they are restricted to 3 bedrooms. Thus, the use of the lounge as a bedroom, as proposed in this application, would not increase the potential maximum number of occupants although in reality it would be likely to see the potential number increase from 3 to 4 occupants.
- 8.13 As the property is semi-detached, there is the possibility that there could be some noise or disturbance experienced by the adjoining neighbour. However, given that the property was built as a family house a certain level of disturbance would be anticipated and considered to be normal. There is no information available to indicate that the noise/disturbance will occur or that it will be of a magnitude which could warrant the refusal of planning permission.
- 8.14 The existing dwelling sits within a large plot and the wider area is relatively spacious, with gaps between properties and reasonably sized gardens. The application does not involve any additional extensions/floorspace and therefore it is considered that there is not likely to be any visual impact upon the wider area.
- 8.15 **Sustainable Transport:**  
Walmer Crescent is a relatively narrow road. Parking occurs on one side which prevents two-way traffic. However, given that it is a relatively short and quiet residential road the Highway Authority has not objected to the application in terms of trip generation or parking provision. They have concluded that any additional on-street parking demand is not likely to result in a severe impact

such that a refusal would be warranted. However, secure, covered cycle parking would be required in line with Local Plan Policy TR14 and this can be secured by condition.

**9**     **EQUALITIES**  
9.1    None identified



## Jack Summers

---

**From:** Jeanette Walsh  
**Sent:** 01 August 2016 11:11  
**To:** Planning Applications  
**Subject:** FW: planning application : BH2016/02229 34 Walmer Crescent Brighton

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Please place on the case file and forward to the case officer.

Kind regards  
Jeanette Walsh  
Planning & Building Control Applications Manager

---

**From:** Daniel Yates  
**Sent:** 29 July 2016 11:51 AM  
**To:** Jeanette Walsh  
**Cc:** Mo Marsh; Anne Meadows  
**Subject:** planning application : BH2016/02229 34 Walmer Crescent Brighton

Jeanette,

Can the following comments and objections be taken on board please for the above application.

The impact of this HMO on the surrounding residents and properties could be significant:

- Potential for noise and other environmental disturbance
- 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

Should the recommendation on this application be to approve I would like this application to come to committee please.

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.

Best wishes

Daniel Yates  
Labour Councillor for Moulsecoomb and Bevendean  
Chair, Brighton & Hove Health and Wellbeing Board  
[daniel.yates@brighton-hove.gov.uk](mailto:daniel.yates@brighton-hove.gov.uk)  
@danieljyates



# **ITEM G**

**2 Highview Way, Brighton**

**BH2016/02278**  
**Household Planning Consent**

**DATE OF COMMITTEE**





**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2016/02278</b>	<b><u>Ward:</u></b>	<b>Patcham Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>2 Highview Way, Brighton, BN1 8WS</b>		
<b><u>Proposal:</u></b>	<b>Erection of single storey extensions to south and north elevations. Landscaping works including raised decking and new driveway, alterations to front boundary and other associated works.</b>		
<b><u>Officer:</u></b>	Justine Latemore, tel: 292138	<b><u>Valid Date:</u></b>	20.06.2016
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	21.07.2016
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>	DW Planning 59 Sadlers Way Ringmer Lewes BN8 5HG		
<b><u>Applicant:</u></b>	Mr Randell Dimery 2 Highview Way Brighton BN1 8WS		

## 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:
- 1.2 The proposed side extension, by reason of its excessive depth, footprint and positioning represents an overextension and disproportionate addition that would dominate the appearance of the host property. The proposal therefore represents an unsympathetic addition that is out of keeping and would not appear as a subservient addition to the original property. It is therefore contrary to policy QD14 of the Brighton and Hove Local Plan and design guidance contained in 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:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor plans/elevations/sect proposed	PL-01	B	20 June 2016
Block Plan Existing	EX-01	A	20 June 2016
Roof Plan Proposed	PR-02	C	20 June 2016

## 2 RELEVANT HISTORY

- 2.1 **BH2016/00483** - Erection of single storey extensions to south and north elevations. Landscaping works including raised decking and new driveway, alterations to front boundary and other associated works. Refused 29/04/2016.

Reasons for refusal:

1. *The proposed side extension, by reason of its depth and roof design, represents an incongruous and unsympathetic addition to the host property resulting in a disjointed overall appearance that lacks an overall design cohesion; contrary to policy QD14 of the Brighton and Hove Local Plan and design guidance within Supplementary Planning Document 12.*
2. *The proposed rear decking, by reason of its depth and height positioned on falling land, would result in overlooking and loss of privacy to the rear elevations and private space of no. 4 and 6 Highview Way, contrary to policy QD27 of the Brighton and Hove Local Plan.*

### **3 CONSULTATIONS**

#### **3.1 Internal:**

**Highway Authority:** Approve with suggested informative:

The applicant wishes to widen the existing crossover on the southern edge to access a new garage being created on the sites northern edge. The residents will have to drive across the front of the house to park their vehicle, whilst a usual arrangement, the Highway Authority recommends approval however a license will be required from the councils Network Coordination team and be subject to detailed design.

**Arboriculture:** No Comment

### **4 REPRESENTATIONS**

- 4.1 **One (1)** email has been received from **Councillor Lee Wares**, supporting the proposed development. A copy of the email is attached to this report.

### **5 MATERIAL CONSIDERATIONS**

- 5.1 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.



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.

## **6 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

QD27 Protection of Amenity

#### Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

## **7 CONSIDERATIONS & ASSESSMENT**

7.1 The main considerations in the determination of this application relate to the design of the proposed extension in relation to the existing building and the effect it will have on the surrounding residential amenity of the neighbouring properties.

### **7.2 Design and appearance**

The siting of the existing bungalow alongside no. 4 and 6 is at odds with the prevailing arrangement and appearance of Highview Road and Highview Way. Highview Way to the south is of similar small scale detached bungalows and to the north on Highview Road are two storey dwellings with side garage extensions. As a result of the existing contrast there is no objection in principle to extending the building, subject to appropriate design and detailing.

7.3 The current application is a resubmission following the refusal for similar works within BH2016/00483. The two main concerns underpinning the previous reasons for refusal were the depth and roof design of the proposed side extension, and the depth and height of the rear decking; which would have resulted in overlooking to the adjoining neighbouring occupiers. The resultant design lacked a cohesive overall design, appearing incongruous and unsympathetic to the roof form and floor plan of the existing property.

7.4 As revised, the current scheme demonstrates a simplified roof design for the side extension by raising the ridge height of the extension to meet the ridge height of the existing projection to the rear; creating a cohesive relationship with the original roof scape of the host property.

7.5 The proposed footprint of 81.6sqm for the side extension remains as proposed within BH2016/00483 and does not address the previous concerns raised regarding the scale and footprint of the extension. The total depth of 15.1m is still considered to be an over extension of the property, directly contrary to best

practice extension guidance with Supplementary Planning Document 12 (p.11), which states  
*"Side extensions, if poorly designed, can over-extend buildings in a disproportionate and unbalanced manner."*

- 7.6 The SPD states that if an extension was sited flush with the front elevation, as the proposal is, it would only be appropriate where it can be clearly demonstrated that the extension integrates well with the design of the host property. The proposed design exceeds the depth of the host property by 2m at the rear and would appear as an out of scale, awkward addition. This would be exacerbated future by the high visibility of the property from surrounding streets given its plot, positioning of the extension and boundary treatment. For these reasons the proposal would not appear as a subservient addition and contravenes guidance contained in SPD12, which states:
- 7.7 *"As a general rule, extensions should not dominate or detract from the original building or the character of an area, but should instead play a subordinate 'supporting role' that respects the design, scale and proportions of the host building."*
- 7.8 The extensions floor area of 81.6sqm when compared with the original host property's floor area of 94.4sqm further displays the dominating, out of scale and disproportionate addition that would result if the application were to be built alongside the existing bungalow. Policy QD14 of the Brighton and Hove Local Plan (p. 86) supports the SPD in regards to expectations for extension applications to be as stated:  
*"Well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area "*
- 7.9 It is therefore concluded that the side extension would create an overly dominant structure that is out of keeping with the host property and is contrary to guidance contained in SPD12 and policy QD14 of the Brighton and Hove Local Plan.
- 7.10 **Impact on neighbour 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.
- 7.11 The impact on the adjacent surrounding properties and rear adjoining no. 4 and 6 Highview Way has been fully considered in terms of daylight, sunlight, outlook and privacy following a site visit.
- 7.12 The raised rear decking has been reduced by 2m in depth (as measured from the original rear elevation) to align with the rear elevation of the proposed side extension, having a total depth of 2m and sited well away from the rear boundary. It has been demonstrated through the reduction of depth within the decking, that the falling land levels have been taken into account, avoiding the

need to level and therefore raise floor heights and have addressed the previous concern of overlooking to the rear adjoining private gardens of nos. 4 and 6 Highview Way.

- 7.13 The area of decking to the rear of the side extension has been removed and replaced by steps providing direct access to the garden space, further reducing potential overlooking. The proposal is considered to be in accordance with policy QD27 of the Brighton and Hove Local Plan.

## **8 EQUALITIES**

- 8.1 None identified



## Jack Summers

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**From:** Nicola Hurley  
**Sent:** 06 July 2016 11:09  
**To:** Planning Comments  
**Subject:** FW: 2 Highview Way - application BH2016/02278

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Please see below

**Nicola Hurley**  
**Planning Manager Applications (I work Monday to Thursday inclusive)**  
City Planning & Development  
**Brighton & Hove City Council**  
Email: [nicola.hurley@brighton-hove.gov.uk](mailto:nicola.hurley@brighton-hove.gov.uk)  
Tel: **01273 292114**  
[www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)

*NB. Please note case officers will normally be available to take your call between 2pm – 4.30pm Monday - Friday*

*NB. Any electronic files sent in support of a planning application must not exceed 5Mb in size. Please ensure all electronic files are submitted in PDF format. They should be sent [planning.applications@brighton-hove.gov.uk](mailto:planning.applications@brighton-hove.gov.uk) to enable them to be processed as quickly as possible.*

---

**From:** Lee Wares  
**Sent:** 06 July 2016 8:59 AM  
**To:** Nicola Hurley  
**Cc:** Geoffrey Theobald  
**Subject:** RE: 2 Highview Way - application BH2016/02278

Dear Nicola,

Please would you accept this email as confirmation that both Cllr Theobald and myself are in support of this application and that we would wish the matter to be brought to the Planning Committee for consideration if the case officer is proposing to refuse the application under delegated powers.

Please would you also make note that one of us may wish to speak on this application and to that end, please will you advise us in good time should the application come before Committee.

Many thanks, Lee

**Cllr. Lee Wares**  
Conservative Councillor for Patcham and Hollingbury  
Opposition spokesperson for Licensing Committee  
Member of Environment, Transport and Sustainability Committee  
Member of Police and Crime Panel  
Brighton and Hove City Council  
King's House  
Grand Avenue

Hove  
BN3 2LS  
Tel: 01273 291996  
Email: [lee.wares@brighton-hove.gov.uk](mailto:lee.wares@brighton-hove.gov.uk)

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**From:** Nicola Hurley  
**Sent:** 04 July 2016 12:15 PM  
**To:** Geoffrey Theobald  
**Subject:** 2 Highview Way

Dear Councillor Theobald

Thank you for your email to Paul Vidler regarding the current application at 2 Highview Way (application reference BH2016/02278).

The application follows an application that was refused planning permission earlier this year (reference BH2016/00483).

The application is currently in the consultation stage and will be allocated to an officer in the next couple of weeks.

The consultation expires on the 21 July 2016. If you are looking to refer the application to committee, please can you advise whether you are support the scheme or objecting to the proposal. The referral to committee needs to be made before the consultation period expires.

I look forward to hearing from you in due course.

Kind regards

Nicola

**Nicola Hurley**  
**Planning Manager Applications (I work Monday to Thursday inclusive)**  
City Planning & Development  
**Brighton & Hove City Council**  
Email: [nicola.hurley@brighton-hove.gov.uk](mailto:nicola.hurley@brighton-hove.gov.uk)  
Tel: **01273 292114**  
[www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)

*NB. Please note case officers will normally be available to take your call between 2pm – 4.30pm Monday - Friday*

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# **ITEM H**

**4 Plymouth Ave, Brighton**

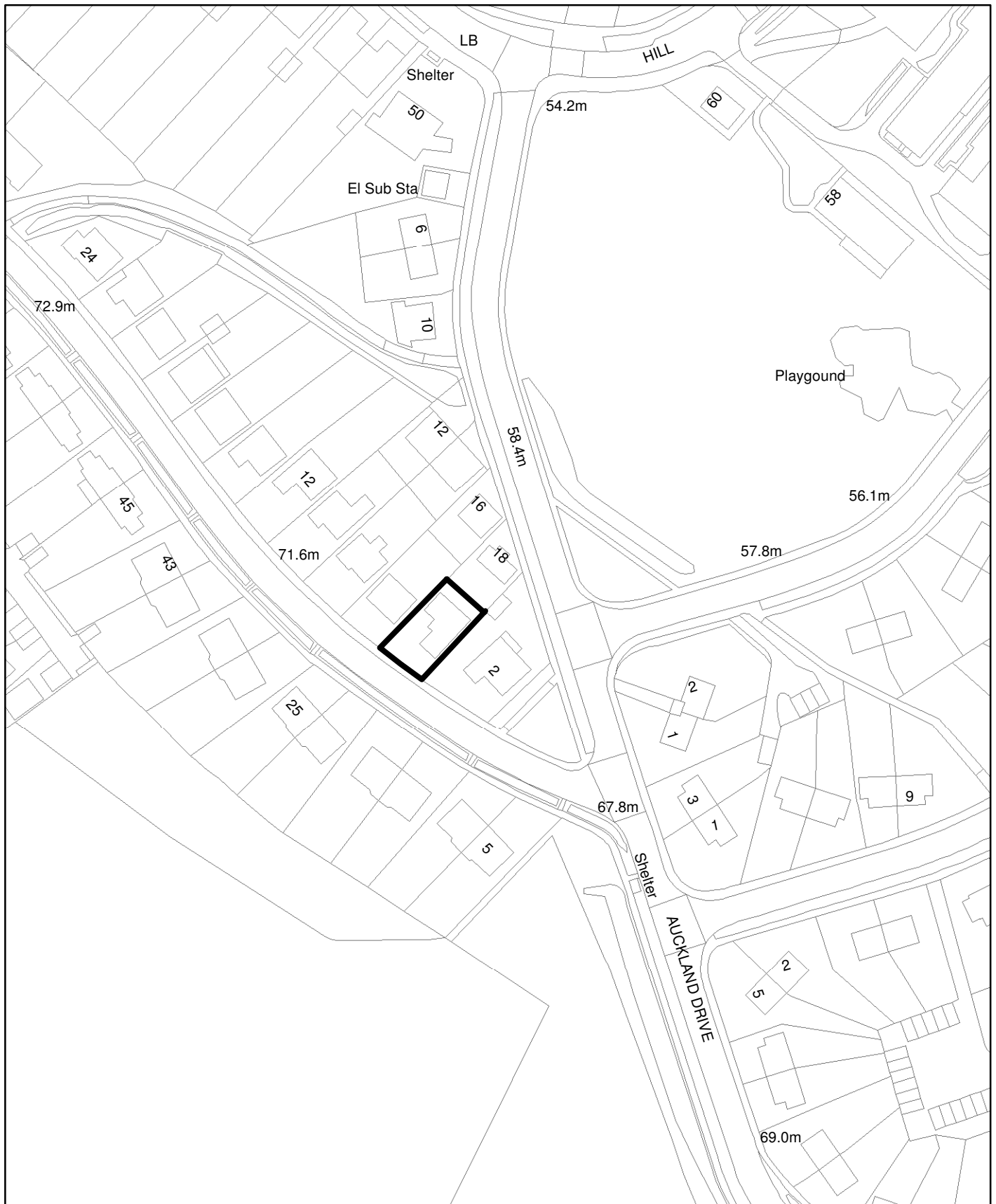
**BH2016/01740  
Full Planning**

**DATE OF COMMITTEE**





# BH2016/01740 4 Plymouth Avenue, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2016/01740</b>	<b><u>Ward:</u></b>	<b>Moulsecoomb And Bevendean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>4 Plymouth Avenue, Brighton, BN2 4JB</b>		
<b><u>Proposal:</u></b>	<b>Change of use from three bedroom dwelling (C3) to four bedroom house in multiple occupation (C4).</b>		
<b><u>Officer:</u></b>	Chris Swain, tel: 292178	<b><u>Valid Date:</u></b>	27.05.2016
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	08.07.2016
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>	DPS Sussex Ltd Hassocks BN6 8GT	19 Turner Dumbrell North End Ditchling	
<b><u>Applicant:</u></b>	Mr W Mackintosh 49 Tivoli Crescent Brighton BN1 5NB		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	BWP.001 (EXISTING PLANS)	C	5 September 2016
Location/block/floor plans and elev prop	BWP.002	A	5 September 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 development hereby approved shall not be occupied until cycle parking facilities for a minimum of two cycles have been fully implemented and made available for use to the side or rear of the property. 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.

- 4 The development hereby approved shall be implemented in accordance with the proposed layout detailed on drawing no.BWP.002A received on 5 September 2016 and shall be retained as such thereafter. The ground floor room annotated as kitchen/living area as set out on drawing no. BWP.002A shall be retained as communal space and this room shall not be used as a bedroom at any time.  
**Reason:** to ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.
- 5 The development hereby approved shall only be occupied by a maximum of five 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 site relates to an L-shaped pitched roofed bungalow to the southern side of Plymouth Avenue with accommodation at lower ground floor level. Most of the rear garden has been lost to create a plot for another dwelling which fronts Auckland Drive.
- 2.2 Planning permission is sought for a change of use from three bedroom single dwelling (C3) to four bedroom house in multiple occupation (C4).
- 2.3 It is noted that revised plans were received during the life of the application. All proposed external works have been removed from the scheme. The creation of a self-contained studio flat has also been removed.

## 3 RELEVANT HISTORY

**BH2008/01681** - Construction of two-storey, two bedroom house in new plot fronting Auckland Drive, formed from subdivision of rear garden of 4 Plymouth Avenue with re-levelling of rear garden. (Resubmission of refused application BH2007/00355). Approved 19 September 2009.

## 4 REPRESENTATIONS

### 4.1 External:

#### Neighbours:

32 letters of representation have been received from **10A, 12, 17 Auckland Drive, 12 Taunton Road, 4, 6, 10, 12, 16, 21, 22, 23, 25, 27, 29, 34, 35, 40, 42, 46, 47, 49, 50, 52(x2), 54, 61, 72, 74, 80 Plymouth Avenue, one unspecified address and the Bevendean Local Action Team** objecting to the application for the following reasons:

- The raising of the ridge height and extension of the roof would result in overshadowing to the adjoining property at No.6 Auckland Drive.
- Overlooking from proposed rooflights to No.6 Auckland Drive.
- Excessive height of the building would be out of character with the area,
- Already student properties at No.2 Auckland Drive (unauthorised), the former surgery on Auckland Drive and 26 Plymouth Avenue,
- Additional parking stress - particularly on Plymouth Avenue which only has parking on one side of the road.
- Pavements are blocked by vehicles preventing the movement of wheelchairs,
- Additional vehicular parking on the road is a significant highway safety risk.
- The area is beginning to appear run down with large numbers of absent landlords,
- Additional refuse concerns,
- The increase in student properties is pricing out families,
- The local school is receiving less pupils and may end up closing in the future,
- The heart of the community is being destroyed,
- Increased noise and disturbance of development,
- Noise and disturbance during construction,
- Additional parking would increase problems with HGV's and buses finding it difficult to pass and result in highway safety problems,
- The decline of this peaceful and beautiful area is linked to the increase in student properties,
- Reduced use of facilities such as parks, playgroups and youth centres and there are concerns that these will be cut,
- Lower Bevendean is already a deprived area, increasing the student population will not help the situation,
- There are a number of illegal student houses in the local area,
- Families are being driven out,
- Increased HMO's is resulting in a serious lack of affordable family housing,
- Application purely for financial gain by greedy landlords at the expense of the community,
- Community facilities, such as the doctors surgery are closing due to increased HMO's,
- B&HCC are prioritising student housing over family homes,
- The LPA should look at a wider area when determining the density of HMO properties within an area,
- Family homes are being lost to a transient community with no long term investment in the structure of the community,
- Insufficient infrastructure and amenities in Bevendean for the increased population,
- Students are better suited to new and proposed developments in the Lewes Road area,
- There are a high number of other HMO applications sited in the immediate vicinity which will increase the studentification of the area,
- Why is Brighton council letting this happen?
- Highway comment is out of date,

- Emergency vehicles are unable to access properties because of the parking stress,
- The proposal would be over the 10% of HMO's allowed within the 50m radius area,
- Due to the location of Bevendean close to the university all the HMO's are used as student lets and not shared houses for local people.

## 5 CONSULTATIONS

### 5.1 Sustainable Transport: No objection

#### Car Parking

No car parking is proposed which could result in additional demand for on-street parking. Although there is currently demand for parking within the immediate vicinity of the site, it is not considered that the additional demand would be substantial or of a level that could be deemed to amount to a severe impact on the highway in this location. The application would not therefore warrant refusal on transport grounds under the National Planning Policy Framework (NPPF).

In terms of the likely level of additional on-street parking demand, it is noted that the average car ownership per dwelling for the Moulsecoomb & Bevendean ward is 0.9 per household (2011 Census). This would suggest that one additional vehicle may be expected for the proposed flat.

At the 2011 Census, student houses in multiple occupation (HMO) within the ward, 46% had no car, 28% had one car and 26% had two or more cars. For non-student HMOs, 29% had no car, 40% had one car and 31% had two or more cars. This compares to a ward average of 38% with no car, 42% with one car and 21% with two or more cars.

Whilst it is noted that the proposal is for an HMO, the above data would not suggest that car ownership will be substantially greater than the ward average. Whilst it is more likely than the ward average that the household will be associated with 2+ cars, it is not considered that what is forecast to be a marginal additional demand from one dwelling would warrant a reason for refusal in this instance.

### 5.2 Cycle Parking

No cycle parking appears to be proposed. SPG4 would require a minimum of one space per three rooms for the house in multiple occupation (three spaces) and one space for the studio flat. It is recommended that further 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, sheltered. Where cycle parking is communal, the Highway Authority's preference is for the use of Sheffield stands laid out in accordance with Manual for Streets paragraph 8.2.22.

### 5.3 Trip Generation

It is considered that any uplift in trip generation as a result of the proposals will be minor. Therefore there is expected to be a limited impact on surrounding highway and transportation networks and no objections are raised in this respect.

## **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);
  - o 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.

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 housing and Housing in Multiple Occupation

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

TR4 Travel plans

TR7 Safe Development

TR14 Cycle access and parking

SU10 Noise Nuisance

QD27 Protection of amenity

Supplementary Planning Document:

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, design and appearance, impact upon neighbouring amenity, the standard of accommodation which the use would provide and transport 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 Principle of the change of use:**

The proposal would allow occupation of the ground and first floors of the property as a small HMO (C4) providing accommodation by up to 6 unrelated individuals (in this case four bed spaces) who share basic amenities including a kitchen and bathrooms.

**8.4 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:*

**8.5 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.'**

**8.6 A mapping exercise has taken place which indicates that there are 27 neighbouring properties within a 50m radius of the application property. Two other properties have 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 7.4%. It is noted that a representation has been received stating that there is an unauthorised HMO at No.2. A retrospective change of use to C4 was granted for this property in February 2016 (BH2015/04017) and this property has been counted in the calculations.**

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

**8.8 Impact on Amenity:**

Whilst the development could result in additional persons residing within the property it is 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.

**8.9 Standard of accommodation:**

The layout has been altered to provide a kitchen / living area and an additional ground floor bedroom. The basement would provide a bedroom with en-suite and would be linked to the ground floor by an internal staircase.



- 8.10 In order to better demonstrate the usability of the bedrooms it would have been helpful to show a complete indicative layout in each bedroom. Whilst beds have been depicted, other basic items of furniture required; i.e. a wardrobe and desk have not been shown. This would have demonstrated whether such items could be sited within the bedrooms whilst still providing adequate circulation space.
- 8.11 Notwithstanding the above, the ground floor bedrooms are considered to be of a reasonable size with good levels of natural light and outlook.
- 8.12 Whilst the basement bedroom is somewhat restricted in regards to circulation space due to the two access doors it is an adequate size and it is considered to provide an acceptable standard of accommodation.
- 8.13 The communal area is adequate in size and overall the layout is considered to provide an acceptable standard of accommodation.
- 8.14 There are concerns that the kitchen / living area could be divided to form a further bedroom thereby severely restricting the communal space within the dwelling to the detriment of occupiers. To overcome this, a condition is recommended requiring this area to be retained as communal space to ensure a satisfactory standard of accommodation is maintained.
- 8.16 Sustainable Transport:**  
The proposed change of use would not result in a significant increase in on-street parking pressure or uplift in trip generation. Whilst the applicant has not proposed secure, covered cycle parking there appears to be sufficient space on site and as such suitable provision could be sought via a carefully worded condition if the proposal was otherwise acceptable.

## **9 EQUALITIES**

- 9.1 None identified



# **ITEM I**

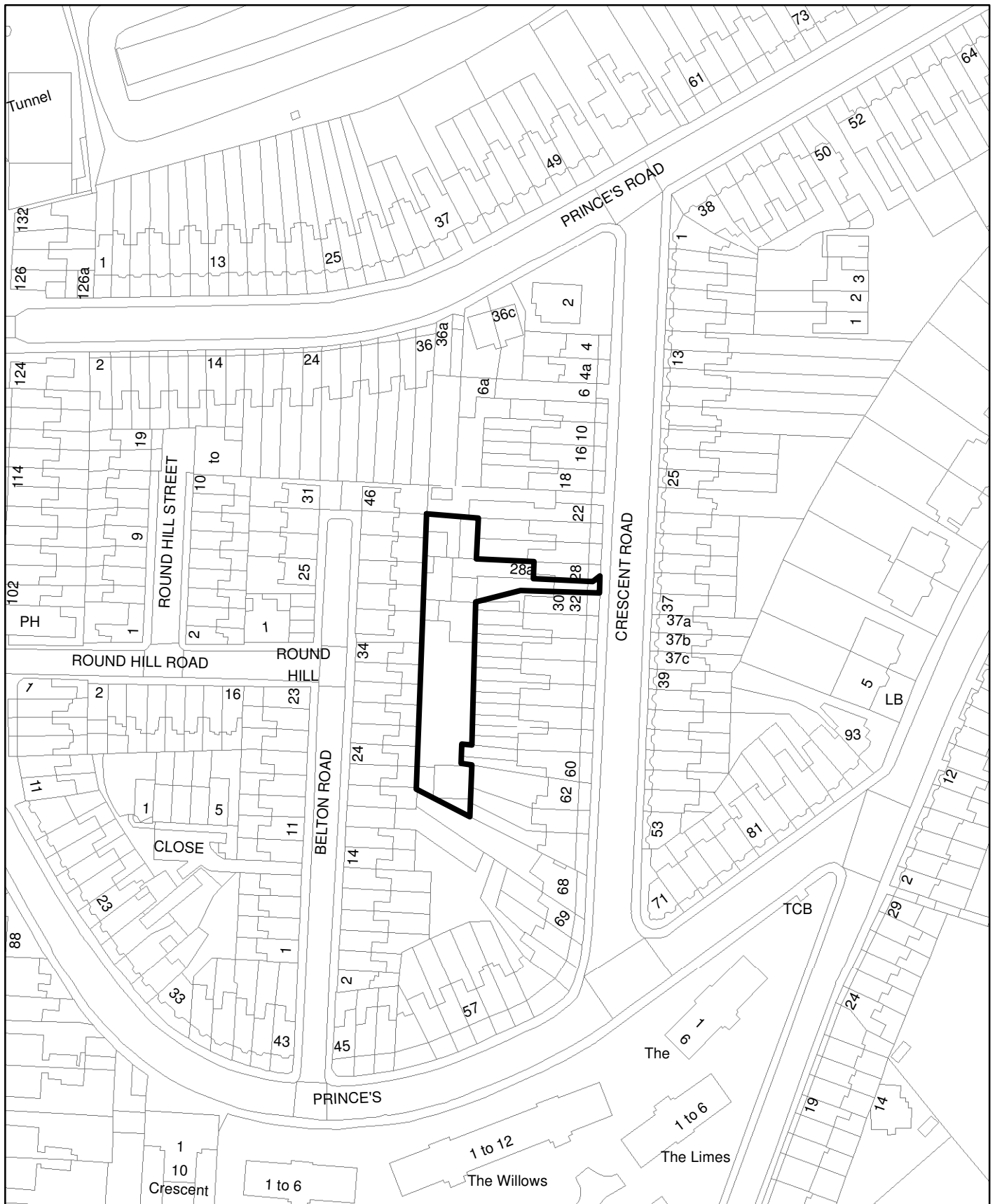
**28 and land rear of including 28B, 28C and  
28D Crescent Rd, Brighton**

**BH2016/00862  
Full Planning and Demolition in CA**

**DATE OF COMMITTEE**



# BH2016/00862 28 and land rear of including 28B, 28C and 28D Crescent Road, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2016/00862</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning and Demolition in CA</b>		
<b><u>Address:</u></b>	<b>28A Crescent Road, Brighton, BN2 3RP (28 &amp; Land Rear of including 28B, 28C &amp; 28D Crescent Road Brighton)</b>		
<b><u>Proposal:</u></b>	<b>Part demolition and conversion of existing commercial buildings and erection of two new buildings to provide 4no two bedroom houses (C3) with associated landscaping.</b>		
<b><u>Officer:</u></b>	Chris Swain, tel: 292178	<b><u>Valid Date:</u></b>	15.03.2016
<b><u>Con Area:</u></b>	ROUND HILL	<b><u>Expiry Date:</u></b>	26.04.2016
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>	DMH Stallard LLP Gainsborough House Pegler Way Crawley West Sussex RH11 7FZ		
<b><u>Applicant:</u></b>	Just Developments Limited Mr David Phillips Timbers Rookery Way Haywards Heath West Sussex RH16 4RE		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	8717/201	C	10 March 2016
Block Plan Proposed	8717/204	H	9 August 2016
Floor Plans Proposed	8717/205	G	9 August 2016
Floor Plans Proposed	8717/206	E	15 July 2016
Floor Plans Proposed	8717/207	F	9 August 2016
Floor Plans Proposed	8717/208	J	9 August 2016
Elevations and sections proposed	8717/209	F	15 July 2016
Elevations and sections proposed	8717/210	H	9 August 2016
Elevations Proposed	8717/211	I	9 August 2016
Sections Proposed	8717/212	E	9 August 2016
Elevations Proposed	8717/213	D	9 August 2016
Elevations Proposed	8717/214	C	15 July 2016
Elevations Proposed	8717/215	D	15 July 2016
Elevations Proposed	8717/216	G	9 August 2016

- 3 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.

- 4 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.

- 5 The two new build residential units 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 Brighton & Hove City Plan Part One.

- 6 The two new build residential units 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 Brighton & Hove City Plan Part One.

- 7 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 hard surfacing materials
- c) Samples of the proposed windows, doors,
- d) 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 policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

- 8 The development hereby permitted shall not be occupied until details of a scheme of works to change the redundant double yellow lines on Crescent Road to CPZ bays has been submitted and approved by the Local Planning Authority.

**Reason:** To ensure that the development provides for the demand for travel it creates and to comply with policy CP9 of the Brighton & Hove City Plan Part One.



- 9 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 surfacing;
  - b) Details of all boundary treatments and screening;
  - c) Details of all proposed planting, 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 protect the amenity of occupiers of adjoining properties and comply with policies CP12 of the Brighton & Hove City Plan Part One and QD27 and QD15 of the Brighton & Hove Local Plan.

- 10 No extension, enlargement, alteration or provision within the curtilage of the dwellinghouse(s) 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, HE6 and QD27 of the Brighton & Hove Local Plan.

- 11 Access to all flat roofs over the residential 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 policies QD14 and QD27 of the Brighton & Hove Local Plan.

- 12 All hard surfaces 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.

- 13 The development hereby permitted shall not commence 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:** This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
- 14 No development above ground floor slab level of any part of the development hereby permitted shall take place until full details of the timber access doors on the Crescent Road frontage including 1.20 scale elevations and 1:1 sections have been submitted to and approved in writing by the Local Planning Authority. The doors shall be installed in full accordance with the approved details prior to first occupation of the dwellings and shall be retained as such thereafter.  
**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
- 15 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.
- 16 (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.

- 17 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.

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 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.
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.

## **2 SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application relates to land located behind the Victorian properties of Nos. 24 to 66 Crescent Road and 20 to 44 Belton Road.
- 2.2 The site currently comprises 2 two storey buildings (known as 28B and 28D) connected by a first floor link, a single storey building (known as 28C) located to the north of 28B, a garage located to the west of 28C and a workshop building located in the southern section of the site. The site and associated buildings are currently vacant but have a B2 Use Class.
- 2.3 The site comprises both a south to north and east to west gradient. The site is accessed via a pair of modern timber doors, through a carriageway beneath 28 Crescent Road.
- 2.4 The site is located within the Round Hill Conservation Area. This area is characterised by residential streets. It was historically the base for many of the laundry businesses that served Brighton. This is evidenced by surviving industrial units to the rear of the residential streets, and the associated green spaces used as drying fields. 28 Crescent Road is an example of an early 20th century laundry.
- 2.5 Planning permission is sought for;
  - The demolition of the existing garage, located within the northern part of the site and the construction of a new building to connect to the proposed converted part of 28C to provide a new two bedroom dwelling known as 28C,
  - The conversion of 28B to a two bedroom dwellinghouse, to remain known as 28B,
  - The demolition of the western section of 28D (suspended first floor) and the conversion of the retained building to provide a two bedroom flat dwellinghouse (to be known 28E), and
  - The demolition of the existing workshop located on the southern side of the site and the provision of a new building to provide a two bedroom dwelling, to be known as 28D.

## **3 RELEVANT HISTORY**

**BH2015/03013** - Part demolition and conversion of existing commercial buildings and erection of two new buildings to provide 3 no. two bedroom houses, 1 no. two bedroom flat and 1 no. one bedroom flat. Refused for the following reasons,

- Notwithstanding the lack of detail submitted the proposed development, by reason of its design, detailing, form and materials, would fail to provide a suitable standard of design and appearance, resulting in a development that

would fail to reflect the character of historic backland sites within the Round Hill Conservation Area. As such the proposal would compromise the quality of the local environment. This identified harm would outweigh the benefit of additional housing and as such is contrary to policies QD1, QD2, QD3, QD4, QD14 and HE6 of the Brighton & Hove Local Plan.

- The proposed development would lead to increased noise disturbance and significant levels of actual and perceived overlooking and loss of privacy to neighbouring properties located on Crescent Road and Belton Road. The proposal would therefore be contrary to policy QD27 of the Brighton & Hove Local Plan.
- The applicant has failed to demonstrate that the proposed basement level accommodation would receive adequate levels of daylight / sunlight. Some of the habitable rooms would also suffer from a poor outlook as result of the proposed vertical fixed brise soleil, which would result in a sense of enclosure. As such it is considered that the units would provide a poor standard of accommodation harmful to the amenity of future occupiers. The proposed development is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.

**BH2014/03343** - Prior approval for change of use from offices (B1) to residential (C3) to form 5no self-contained flats. Prior Approval Required and is Refused. 09/12/2014 for the following reason;

- The applicant has failed to demonstrate that the application site was used for a use(s) falling within Class B1(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 either immediately before the 30 May 2013 or when last in use and that such a use(s) were lawful. Accordingly, the proposed development is not permitted under Class J, Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order") and the application is refused pursuant to paragraph N. (2A) of the aforesaid Part 3.

**BH2014/01815** - Certificate of lawfulness for existing use as offices (B1). Withdrawn 16/07/2014.

**BH2014/00841** - Prior approval for change of use from offices (B1) to residential (C3) to form 5no self-contained flats. Prior Approval is required and is refused on 13/05/2014 for the following reason,

- The applicant has failed to demonstrate that the application site was used for a use falling within Class B1(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 either immediately before the 30 May 2013 or when last in use. Accordingly, the proposed development is not permitted under Class J, Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 ("the 1995 Order") and the application is refused pursuant to paragraph N. (2A) of the aforesaid Part 3.

**BH2014/00124** - Conversion of building from financial and professional services (A2) to form 5no self-contained flats with associated alterations. Withdrawn.

**BH2009/01665** - Erection of infill extension to ground floor. Disposed 18/08/2010.

**89/2263/F** - Change of use from workshop (picture framing) to workshop (purpose made joinery). Refused 20.02.1990.

**70/2068** - Change of use to designing and lithographic plate makers (Section 43 Determination). No change of use 22/10/1970

**68/1831** - Installation of warm air heating. Approved 01/10/1968.

**68/1246** - Alterations to enable premises to be used as wine blending and processing. Approved 23/07/1968.

**65/1926** - Use of existing buildings as a builders works, together with the enlargement of the access for lorries and private cars, and the reinstatement of 1 private dwelling. Refused 05/10/1965.

**65/1776** - Outline application for demolition of existing laundry premises and the construction of buildings for use as warehousing and storage purposes. Existing residential on frontage to be reconstructed. Refused 21/09/1965.

**65/1442** - Change of use from laundry to builder's workshop, stores, parking space, access road and offices. Refused 13/08/1965.

**65/1341** - Demolition of existing laundry premises and the construction of buildings for use as light industry. Existing residential on frontage to be reconstructed. Refused 05/08/1965.

**65/1241** - Use for the manufacture of component parts and assembly of temperature control instruments, flow meters and tool making. Refused 06/07/1965.

**63/2228** - Change of use from laundry building with open ground and miniature rifle range to wholesale photographic developing and printing works. Refused 08/01/1964.

## **4 REPRESENTATIONS**

### **4.1 Neighbours:**

Seventeen (17) representations have been received from the occupiers of 22(x2), 22A, 24, 34, 38, 40 (x2) and 44 Belton Road, 46, 48, 64, 66 and 68 Crescent Road, 55 Princes Road, 74 Hythe Road, 110 Crescent Drive South and one unknown address objecting to the proposal on the following grounds;

- Loss of privacy and overlooking. Inaccurate to state that views from development of unit 28D would be blocked by existing boundary wall,
- Overlooking / loss of privacy,
- Increased noise and disturbance from the proposed dwellings and respective gardens,

- Noise and disturbance during construction,
- Increased security risk,
- The building site could pose a danger to pets during the construction phase,
- Design out of keeping with the Conservation Area and the surrounding streets,
- The revisions to the windows in comparison to the previously refused scheme would still result in overlooking,
- Light pollution,
- The loss of the employment is contrary to policy,
- The proposed sunken dwelling (28D) is particularly out of character with the adjoining properties,
- Completely alien in design terms as a residential development,
- Developer maximising profit over acceptable housing density,
- A refuge to wildlife would be lost,
- Insufficient natural light for proposed dwellings,
- Poor standard of accommodation for proposed dwellings,
- Design out of character with this historic backland site,
- It is not clear how waste / recycling will be stored and collected,
- The applicant has not fully assessed the structural implications of the development on neighbouring properties,
- The commercial space is highly sought after in this area and should be retained,
- Raised nature of the site results in a development that is overbearing to adjoining residents,
- Developers suggestion that deep excavation is the solution to limiting loss of privacy as a result of the development does not mitigate the overcrowding, it simply emphasises the developers understanding that this is overcrowding,
- Creating two gardens from the open space would result to excessive noise, disturbance, overlooking and loss of privacy to adjoining properties,
- Proposed dwellings could be occupied 24 hours a day rather than 9-5 weekday routine of a commercial property,
- Area already too densely populated. Development of further housing in an area that has such high density of housing will remove one of the last remaining open spaces in the Conservation Area,
- Over-development of an area already over-developed and over-crowded area which is not suitable for more residential development.
- The proposed units could not all comply with policy Lifetimes Homes, contrary to policy HO13.
- Light pollution,
- Screen planting proposed along the boundaries could mature and block light into neighbouring gardens. No indication of spaces has been given.
- No site investigation has taken place in accordance with the NPPF, to safeguard structural stability of the existing building, nearby buildings and other infrastructure. This should be done given the proposed excavation for the basement of no. 28C,
- Would not be totally car free as residents could bring cars into area after CPZ restrictions finish in the evening meaning extra parking pressure on already very crowded streets. No on-street parking survey as recommended

by SPD13 has been submitted. Applicants who offer car-free development will need to demonstrate capacity for on-street parking in the immediate vicinity of the site and surrounding area. It has been recognised by Planning Inspectors who have dismissed appeals in the Round Hill neighbourhood on the grounds of limited supply of on-street parking spaces, that completion for space reaches its peak in the evenings. Although proposed to be car free deliveries etc. would simply drive in at any time of the day or night,

- Nature of making this an area of conservation should be considered fully as the development does not in any way 'conserve' the local area. Whilst residents of existing houses are subject to very tight planning and conservation rules, makes no sense to grant full planning for development in an already overcrowded location,
- Inadequate amenity space for future occupiers,
- Inadequate emergency vehicle access, the gateway into the site is narrow and low and is constrained by the walls of neighbouring properties. Concerned that emergency vehicles, especially fire engines, would not be able to access the site and that a fire could be a hazard to neighbouring properties,
- Security of neighbouring houses would be compromised.

#### 4.2 Roundhill Society: Objects on the grounds of;

- Overlooking and loss of privacy - would be on land that is raised above the majority of the large number of dwellings that are adjacent to the site. Many neighbours would be overlooked in their gardens and lines of sight into their homes.
- Disturbance - would be in 24 hour use whereas it has until now been used only during office hours and only in irregular use at weekends for many years. Noise and light disturbance to neighbours would increase. Use of outdoor spaces would lead to noise from a previously largely unused area,
- Overdevelopment - represents overdevelopment in the Conservation Area where open spaces are a valued aspect of the character of the area. Developer justifies the overdevelopment by referring to the footprint of existing buildings. Offers poor conditions for new occupants. There is an insufficiency, unsuitability and meanness of private outdoor amenity space for new occupants. Proximity of the 'sunken courtyards' to neighbours and necessity for amount of subterranean accommodation are indicative of overdevelopment.
- Unsuitability of Materials and Design - canted windows and the proposed detailing are features certainly not in keeping with the design and materials of the Conservation Area. Proposed view from Crescent Road up the entrance drive is not in keeping with the character and appearance of the Conservation Area. Materials, box-shaped, flat-roofed homes are inappropriate and far too close to existing period-homes.
- Poor access to street for 28D and 28C. Difficulties for waste collections and deliveries,
- Unlikely that the proposed car-free condition can be maintained so will mean a demand for extra parking spaces



## 5 CONSULTATIONS

- 5.1 **Environmental Health:** No objection  
Recommend approval subject to full land contamination condition.
- 5.2 **Heritage:** No objection
- 5.3 The proposal retains 28B (the earliest laundry building on the site), and seeks to demolish and rebuild 28C and D to the same/similar footprint and scale. The retention of the main building and the ratio of built form to open ground is appropriate. It is appropriate that the scale and massing of the buildings does not exceed the current level.
- 5.4 28C and 28D are of lesser architectural and historic interest, and their demolition is not resisted.
- 5.5 Historic research has been undertaken to establish the original layout, with particular reference to the front entrance gateway. Originally this appears to be a pair of timber vertically boarded ledged and braced doors. It is proposed to reinstate these, which is appropriate (subject to details).
- 5.6 A modern approach to elements of the design has been considered appropriate. The design and material palette have appropriately been toned down relative to the previously refused application. Some elements require further consideration, including the inner courtyard.
- 5.7 A parapet detail would appropriately be added to all flat roofs, to provide a better quality detail to the proposed.
- 5.8 Solar panels should only be included where they can be accommodated discreetly. The parapet detail may help achieve discreet accommodation on the flat roofs.  
The glazed link between 28B and 28C should be as lightweight as possible. In particular, the frame to the door could be slimmer.
- 5.9 The panelled door shown in E-11 View North 28E appears out of place in relation to the remaining industrial-style fenestration.  
The door shown in E-07 View South 28E is appropriately indicated as being retained. The door design should be shown accurately or no door design should be shown in this location. The ground floor window to the far right of this elevation relates poorly to both the windows above and to the other ground floor windows.
- 5.10 Further revisions were received on 15 July 2016 addressing some of the concerns outlined above and as such the Heritage Team would not object to the proposal.
- 5.11 **East Sussex Fire Rescue:** Comment

Access and facilities for the fire service should be provided in accordance with Building Regulations whereby there should be vehicle access for a pump appliance to within 45m of all points within each dwellinghouse.

**5.12 Planning Policy: No objection**

A similar application BH2015/03013 was refused in late 2015. Policy comments for the 2015 proposal concluded that the marketing information was sufficient. In view of this the application was not considered to raise any policy concerns in relation to policy CP3.5. The benefit of the proposal in providing new housing was considered to out-weigh any harm of the loss of the employment floorspace (which has not been operating on this site for some 2-5 years). In view of this it is considered that the new application BH2016/0082 raises no additional policy issues.

**5.13 Sustainable Transport: No objection**

The Highway Authority has no objections to the application subject to the inclusion of conditions regarding cycle parking implementation and redundant double yellow lines.

**5.14 City Regeneration Objection**

City Regeneration recommends refusal of this planning application, due to loss of employment floor space.

5.15 We therefore consider the marketing evidence insufficient to prove the site's redundancy for commercial purposes.

## **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  
CP1 Housing delivery  
CP2 Sustainable economic development  
CP3 Employment land  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP10 Biodiversity  
CP11 Flood risk  
CP12 Urban design  
CP14 Housing density  
CP15 Heritage  
CP16 Open space

### 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  
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  
HO20 Retention of community facilities  
HE6 Development within or affecting the setting of conservation areas

### Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD09 Architectural Features  
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 loss of the existing commercial use and the impacts of the proposed development upon the character and appearance of the site, the Crescent Road and Belton Road streetscenes and the surrounding area especially the Round Hill Conservation Area. The impacts upon the amenities of neighbouring properties, standard of accommodation proposed, sustainability and transport issues 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 Loss of Existing Commercial Use:**

Within the current application permission is sought for the loss of approximately 424m<sup>2</sup> of employment space.

8.4 Part 5 of Policy CP3 of the City Plan states that "unallocated sites or premises in employment use will not be released to other uses unless the site or premises can be demonstrated to be both redundant and incapable of meeting the needs of modern employment uses."

8.5 The supporting text to CP3 Part 5 (paragraph 4.38) sets out the criteria that are considered including the length of vacancy, marketing efforts, location and quality of the buildings.

8.6 In the recently refused application (BH2015/03013) information relating to marketing and the condition of the buildings were submitted. The Local Planning Authority accepted the loss of the commercial space which has been vacant for 3-5 years.

8.7 Comments from the Planning Policy Team state that they are satisfied that the loss of the employment space was assessed in the earlier application and considered acceptable and as such would not object to the current application.

8.8 It is considered that the loss of the employment floorspace has been established and the proposal is acceptable in this regard.

**8.9 Design and Appearance:**

The previously refused design failed to reflect the character of the historic backland site within the Roundhill Conservation Area. The palette of materials, including timber cladding and fibreboard cladding resulted in a development that jarred with the traditional neighbouring buildings and harmed the setting of the Conservation Area.

8.10 The current application proposes a white render finish or buff brick finishes to the development and this is considered to result in an acceptable appearance and impact on the Conservation Area.

Further revisions have been submitted during the life of the application, addressing concerns set out by the Heritage Team. These include;

- Glazing to the inner courtyard of 28B has been refined.
- A parapet walls added to some of the flat roofs where it will not significantly increase building heights,
- Solar panels have been reconfigured / re-sited.
- The glazed link in 28C has revised,

- The rear door to 28E has been changed to an industrial style and the retained front door has been corrected to show panelling as per existing.
  - The far right ground floor window to the front of 28E has also been revised.
  - The Heritage Team are satisfied that the proposal is acceptable in design terms and would preserve the Conservation Area.
- 8.11 The overall amount of built form is a reduction in 5% over the existing layout. The open character of the site would be retained with garden areas providing a break between the built form to the north of the site and the proposed new-build dwelling to the south (28D).
- 8.12 A condition to remove permitted development rights is proposed to ensure that the Local Planning Authority has control over future development on the grounds of both design and amenity.
- 8.13 Full details of the proposed landscaping are to be sought by condition.
- 8.14 **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.
- 8.15 The previous scheme was refused on the grounds that the proposed development would lead to increased noise disturbance and significant levels of actual and perceived overlooking and loss of privacy to neighbouring properties located on Crescent Road and Belton Road.
- 8.16 The current scheme has reduced the density from the 5 units proposed in the previously refused scheme to 4 units. The application submission states that techniques have been utilised in the proposal to reduce overlooking including omitting some existing windows, the use of canted and high-level windows, creation of internal voids and the insertion of sun-pipes and rooflights.
- 8.17 It is acknowledged that a residential use, with activity in the evenings and the weekends has the potential to have a much greater impact on neighbouring amenity than the lawful commercial use, which is likely to operate during the week in daytime hours and be of a more limited nature at weekends.
- 8.18 It is considered that the revisions to the fenestration which include the reduction in size of some windows, the removal of some windows and further canting of windows would provide satisfactory mitigation in regards to a loss of privacy for neighbouring occupiers.
- 8.19 The overall amount of glazing and the potential for overlooking has been reduced significantly in comparison to existing levels and whilst it is noted that a residential dwelling is likely to be used more intensively in the evenings and weekends it is not considered that any loss of privacy would be so significant as to warrant refusal. It should also be noted that the proposed development is set

within a tight urban grain and mutual overlooking currently exists between the existing properties neighbouring the site.

- 8.20 In the previous scheme an area of communal open space was proposed. In the current scheme this land has been split to form private gardens for 28D and 28E. It is considered that these areas can now be sufficiently screened to provide any significant harm to amenity in regards to loss of privacy or noise and disturbance.
- 8.21 Subject to satisfactory screening on the boundaries of the site the path to 28D, (which is set back from side boundary) would not result in any significant overlooking to neighbouring properties or harmful disturbance.
- 8.22 The removal of the upper terrace to 28D would reduce the potential for overlooking and noise and disturbance at this level. Whilst the sunken terrace would be retained this would be set below ground level and on its own would not result in a significantly harmful impact in regards to noise and disturbance.
- 8.23 Overall, the reduction in the number of proposed units, revisions to fenestration, the creation of private garden areas and proposed satisfactory screening would ensure that the development would not result in unacceptable noise or disturbance or a harmful loss of privacy to adjoining properties.
- 8.24 The proposed garden area of unit 28C would be enclosed by a 2m high boundary wall. Whilst it is noted that the provision of an external amenity area in the northern part of the site (which is already more built up than the southern section) could result in some increased noise disturbance to neighbouring properties it is considered that the boundary treatment would mitigate noise disturbance and prevent overlooking and loss of privacy from the proposed amenity area towards neighbouring properties.
- 8.25 Given the built form, scale and massing of the existing buildings on the site, their relationship with surrounding neighbouring properties and the design and height of the proposed new/altered buildings it is not considered that the proposed height, bulk and massing of the proposed new buildings would have a significant adverse impact upon the amenities of neighbouring properties with regards to overshadowing, loss of light/daylight.
- 8.26 **Standard of Accommodation:**  
The proposed development would in principle provide a small but welcome contribution towards meeting the City's considerable unmet housing need, in accordance with policy CP1.
- 8.27 The proposed residential units would provide the following floor space;
- Unit 28B (2 bedroom dwelling) - 114sqm,
  - Unit 28C (2 bedroom dwelling) - 100sqm,
  - Unit 28D (2 bedroom dwelling) - 102sqm,
  - Unit 28E (2 bedroom dwelling) - 134sqm,

- 8.28 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 lists a minimum gross internal floor areas. The proposed residential accommodation would exceed the minimum standards set out in this document.
- 8.29 Local Plan policy HO5 requires new residential development to provide adequate private and usable amenity space for occupiers, appropriate to the scale and character of the development. The following private amenity spaces would be provided;
- 28B - a courtyard area in the centre of the built form,
  - 28C - a garden area to the north of the building,
  - 28D - a sunken courtyard and a private garden to the north.
  - 28E - private garden area to the south.
- 8.30 It is considered that the proposed amenity areas are appropriate and the development would accord with policy HO5.
- 8.31 In the previous application the applicant had failed to demonstrate that the basement level rooms in units 28C and 28D would provide an acceptable standard of accommodation for future occupiers by way of satisfactory levels of sunlight and daylight.
- 8.32 In the current application the lightwell to 28C has been increased in depth to provide more lighting to the basement area. A daylight and sun lighting report has been submitted with the application which outlines that the habitable rooms at basement level in 28C and 28D would exceed the minimum requirements set out in BRE guidance and the proposal is considered acceptable in this regard.
- 8.33 The fixed brise soleil attached to some of the windows on the previously refused scheme have been removed and this would improve outlook and levels of natural light.
- 8.34 Overall, the proposed residential units are of acceptable size with adequate levels of outlook and natural light and the living conditions for future occupiers are considered to be acceptable.
- 8.35 **Sustainable Transport:**  
The existing pedestrian access from Crescent Road would be retained. It is stated in the application that the applicant is not intending to provide any on-site car parking provision and as such no vehicular access to the site is proposed. The change of use would not result in a significant increase in on street parking pressure or a significant uplift in trip generation.
- 8.36 Following interrogation of the TRICS database the Council's Transport Officer does not consider that the proposal would increase trip generation above existing levels. The permitted employment use is considered to have more total person trips than that of the proposed 4 residential units. As such in this

instance no S106 Contribution in relation to an increase in transport impact is sought.

- 8.37 The site is located in a sustainable location in close proximity to modes of public transport such as bus services and the London Road train station.
- 8.38 The proposed development is sited within a CPZ and does not include any vehicular parking. As such a condition is proposed to restrict future occupier's rights to resident parking permits in the interests of highway safety and public amenity.
- 8.39 Further conditions are proposed relating to the implementation of the proposed cycle storage and the removal of the existing yellow double lines over the existing vehicular entrance to create an additional parking space.
- 8.40 **Accessibility:**  
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 all the (new-build) dwellings does not appear to be achievable due to the gradient of the site and as such a condition specifying Requirement M4(2) of the optional requirements in Part M of the Building Regulations is not applied.
- 8.41 **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 proposed to ensure that the two new build units meet these standards as set out in policy CP8.
- 8.42 **Environmental Health:**  
The proposed development relates to and is sited adjacent to premises with a long history of use as laundries. There was also a miniature rifle range on the site, which during its use may have caused some localised lead contamination of the soil. As a result a full land contamination condition would be required.
- 8.43 **Ecology:**  
As part of the application a Biodiversity Checklist has been completed and submitted in which no indicators of impact upon ecology/biodiversity have been identified. In addition no evidence to highlight ecology matters was identified during the Case Officer's site visit and as such overall it is considered that the proposal is unlikely to have any significant impacts on biodiversity or ecology.
- 8.44 **Other Considerations:**  
Issues regarding the potential damage to neighbouring properties and boundary walls are not material planning considerations.



**9 EQUALITIES**

9.1 The gradient of the site is such that accessible access cannot be easily provided for throughout the development.



# **ITEM J**

**4 Harrington Rd, Brighton**

**BH2016/02201  
Householder Planning Consent**

**DATE OF COMMITTEE**



# BH2016/02201 4 Harrington Road, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



<b><u>No:</u></b>	<b>BH2016/02201</b>	<b><u>Ward:</u></b>	<b>Withdean Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>4 Harrington Road Brighton</b>		
<b><u>Proposal:</u></b>	<b>Creation of vehicle crossover, dropped kerb and hardstanding with associated alterations to front boundary wall.</b>		
<b><u>Officer:</u></b>	Laura Hamlyn, tel: 292205	<b><u>Valid Date:</u></b>	23.06.2016
<b><u>Con Area:</u></b>	PRESTON PARK	<b><u>Expiry Date:</u></b>	15.07.2016
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>			
<b><u>Applicant:</u></b>	Dr Emma Warde-Robinson 4 Harrington Road Brighton BN1 6RE		

## 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 existing front boundary wall and garden contribute positively to the character of the street scene and of the Preston Park Conservation Area. The partial loss of the front wall would erode the front boundary treatment in this section of the street and would detract from the historic character of Harrington Road. The proposal would fail to preserve the character or appearance of the Preston Park Conservation Area, contrary to policies HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One and to the guidance within Supplementary Planning Document 09 Architectural Features.

### 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:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Block Plan	H1110PC/HP/02		10 June 2016
Location Plan	H1110PC/HP/01	A	23 June 2016
Floor plans and elevations proposed	H1110PC/HP/04		10 June 2016

## 2 RELEVANT HISTORY

### **BH2015/00303**

Creation of vehicle crossover, dropped kerb and hardstanding with associated alterations to front boundary wall. Refused 02/04/2015 for the following reason:

The existing front boundary wall and garden contribute positively to the character of the street scene and of the Preston Park Conservation Area. The partial loss of the front wall would erode the front boundary treatment in this section of the street and would detract from the historic character of Harrington Road. The hardstanding, when in use, would disrupt the front elevation and bay window of the building which would further detract from the character of the area. The proposal would fail to preserve the character or appearance of the Preston Park Conservation Area, contrary to policies QD14 and HE6 of the Brighton & Hove Local Plan and to the provisions of Supplementary Planning Document 09, Architectural Features.

The applicant subsequently appealed the decision and the appeal was dismissed on the 18th September 2015.

**BH2006/03002-** Certificate of Lawfulness for proposed replacement rear window with French doors and replacement of side door with sash window. Approved 09/10/2006.

**BH2000/00309/FP-** Change of use from Nursing Home (C2) to two single dwellings (C3). Approved 15/03/2000.

*29 Harrington Road*

**BH2015/03542-** Creation of hardstanding, vehicle crossover and dropped kerb with associated alterations to front boundary. Approved 12/02/2016.

### **3 CONSULTATIONS**

#### **3.1 Transport: Approve.**

There is not forecast to be a significant increase in pedestrian and mobility and visually impaired trip generation as a result of these proposals therefore any impact on footways will be minimal and within their capacity so the application is deemed acceptable and developer contributions for footway related improvements will not be sought.

3.2 The Highway Authority does not wish to request cycle parking (in line with parking standards SPG04) as this is an application for new and/or additional car parking only and therefore does not contain evidence of existing or proposed cycle parking arrangements.

3.3 The site is outside of a controlled parking zone so there is free on-street parking available. There are also opportunities, if somewhat limited, in the form of free on-street disabled parking bays in the vicinity of the site for disabled residents and visitors to park when visiting the site by car. Blue Badge holders are also able to park, where it is safe to do so, on double yellow lines for up to 3 hours in the vicinity of the site. Therefore in this instance the Highway Authority would not consider the lack of dedicated for sole use on-site disabled car parking to be a reason for refusal.

3.4 The applicant is proposing changes to vehicle access arrangements onto the adopted (public) highway and for this development this is deemed acceptable. It



is therefore requested that the new/extended crossover condition and informative is attached to any permission granted.

3.5 **Arboriculture:** Approve.

Nothing of any public amenity value from an Arboricultural perspective will be lost to facilitate the development and therefore the Arboricultural Section has no objection to these proposals.

3.6 The London Plane tree on street outside the property is at sufficient distance from the proposed development to not be affected by the proposed changes. While a section of informal Forsythia hedging would be lost this is of little arboricultural value and minimal screening value and therefore the Arboricultural Section has no objection to its loss.

3.7 **Heritage:** Refuse.

Number 4 Harrington Road is a late 19th century semi-detached red brick villa situated within the Clermont Estate part of the Preston Park Conservation Area, which was developed from the 1860s onwards and is a residential area of wide tree-lined streets of mainly two storey housing, mostly red brick. Harrington Road was mostly developed in the Edwardian period and is more mixed than some other streets in the area but contains some fine examples of Edwardian property, both detached and semi-detached, built of red brick and typically with rendered string courses, square bays and tiled roofs. The many trees, deep front gardens and mature planting provide an attractive setting for these different buildings. Typical of the area are combinations of front walls and pillars that provide a coherent hard boundary to the footway. Number 4 retains its original brick wall and pillars, symmetrically matching those to the other half of the pair, and as is traditional the pillars mark the entrance; together they contribute very positively to the appearance and character of the conservation area.

3.8 The proposal is to remove the western section of boundary wall and one of the pillars, as well as removing the historic tiled entrance path, in order to form a hardstanding for parking cars. Policy HE6 makes clear that the removal of boundary walls, fences, railings, gates and the formation of car hardstandings will be resisted in conservation areas. SPD09 states that "permission will not be granted for the demolition or partial demolition of a boundary wall" and goes on to say that the loss of front walls to create off-street parking spaces in front garden areas, or alterations to the position of piers, disrupts the rhythm of the boundaries and alters the scale and degree of enclosure of the street.

3.9 In this case the wall and pier are clearly original and attractive features and form a strong symmetry with the adjoining house in the pair. Their loss, and the formation of a hardstanding for cars directly in front of the house, would be wholly contrary to policy and would demonstrably harm the appearance and character of the conservation area. There is a statutory presumption against harm to designated heritage assets. This harm is therefore given great weight but is considered to be less than substantial in this case and therefore, under paragraph 134 of the NPPF, must be weighed against any public benefits

arising from the proposal; in this case there are considered to be no such benefits.

- 3.10 There are not considered to be any ways in which private car parking could be provided within the front garden area without causing clear demonstrable harm to the conservation area.

#### **4 REPRESENTATIONS**

- 4.1 **Six (6)** letters have been received from **5, 6, 8, 10 and 20 Harrington Road**, supporting the proposed development on the following grounds:

- The road is heavily used by commuters from Preston Park Station leaving limited parking for residents, who may have to park streets away.
- Few frontages retain the original walls and pillars.
- Many other houses have driveways and another off-road parking area would not detract from the look of the road.

**One (1)** letter has been received from **Councillors Ann and Ken Norman**. A copy of the letter is attached to the report.

**One (1)** letter has been received from the **Preston & Patcham Society**, objecting to the proposed development on the following grounds:

- The understandable wish to reserve private parking should not outweigh the harm to the appearance and character of the recipient property and the wider Conservation Area.

#### **5 RELEVANT POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP15 Heritage

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

QD14 Extensions and alterations

QD27 Protection of Amenity

TR7 Safe Development

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD09 Architectural Features

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 on the appearance and character of the building, the wider streetscene and the amenities of adjacent occupiers.
- 6.2 This application is a resubmission following a refusal which was dismissed at appeal. No changes were made to the proposed development as part of this application.
- 6.3 **Design and appearance**  
The Heritage Officer has commented on the application and advised that the proposal to create a hardstanding and removal of the boundary wall and pier would be contrary to policy and would demonstrably harm the appearance and character of the conservation area. There is a statutory presumption against harm to designated heritage assets. This harm is therefore given great weight but is considered to be less than substantial in this case and therefore, under paragraph 134 of the NPPF, must be weighed against any public benefits arising from the proposal; in this case there are considered to be no such benefits. The Heritage Officer also advised that there are not considered to be any ways in which private car parking could be provided within the front garden area without causing clear demonstrable harm to the conservation area.
- 6.4 The previous application BH2015/00303 was appealed and the Inspector's decision is a material planning consideration that must be given significant weight. In their decision the Inspector described the application as relating to a semi-detached property at the western end of Harrington Road which is one of few residential dwellings that does not have a dropped kerb and off-road parking. It is also one of few properties, along with its neighbour 6 Harrington Road that has retained the front boundary brick piers and wall in its original form. The proliferation of off-road parking in the vicinity of the application site and loss of or substantial alteration of original front boundary walls has, to a noticeable extent, eroded the rhythm within the streetscape that Supplementary Planning Document 09- Architectural Features, adopted 17 December 2009 (SPD09), seeks to protect.
- 6.5 The Inspector notes that, notwithstanding the above, the proposed removal of one of the front boundary brick piers and section of wall to allow off-street parking would give rise to additional harm to the rhythm of front boundaries that remain along the western end of Harrington Road with resulting harmful effects on the character and appearance of the streetscene and wider Preston Park Conservation Area and in contravention of the requirements of SPD09. In the context of the Preston Park Conservation Area as a whole and Harrington Road's less cohesive streetscape, in combination with no effect on identified views and no loss of trees or mature planting of any importance, it is considered that the harm arising to the significance of the designated heritage asset as a result of the proposal would be less than substantial. It is accepted that other key features of the application site would remain undisturbed, including the front garden to the fore of the bay window and the front steps, and that the front bay window would not be impeded by the presence of a vehicle. This does not outweigh the harm as set out above.

- 6.6 The Inspector noted that policy QD14 relates to Extensions and Alterations and that the council did not explain the conflict with this policy. This policy is not used in the justification of the decision of the current application.
- 6.7 To summarise, the proposed development would fail to preserve or enhance the character and appearance of the Preston Park Conservation Area contrary to the requirements of s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and that the harm identified, albeit less than substantial, would not be outweighed by public benefits as required by paragraph 134 of the National Planning Policy Framework.
- 6.8 **Impact on amenity**  
The crossover would allow a car to be parked in front of the property which, in normal domestic use, would not be expected to significantly impact on adjacent properties in terms of noise or disturbance.
- 6.9 **Transport**  
The proposed hardstanding would be of an adequate depth to accommodate a parked vehicle. The proposal would not result in a net loss of parking, with an on-street parking bay replaced with an off-street parking space. There are no reasons to consider access and egress would cause a safety hazard for users of adjoining highways. At the same time it would also not result in a significant improvement to highway safety which could be deemed a public benefit that might outweigh the harm to the Conservation Area.
- 6.10 **Other matters**  
It is noted that a similar application (BH2015/03542) was approved at the eastern end of Harrington Road at no.29. There are several important differences between no.4 and no.29, which mean that the current application would have a much larger impact on the character of the Conservation Area than the previous application:
- Unlike the application site, 29 Harrington Road is a detached property, so there is no symmetry to a semi-detached pair that would be disrupted.
  - The front garden at 29 Harrington Road is 11.6m deep and 12m wide compared to the application site which is 6m deep and 9.5m wide. - The hardstanding takes up proportionally less of the front garden.
  - The opening in the front boundary wall at no.29 is 3.5m wide and the proposed opening would be 4.6m wide, causing greater harm to the rhythm of the front boundary walls.
- 6.11 While there is no planning history for these works, both neighbouring properties (27 and 31 Harrington Road) have removed part of the front boundary wall to create driveways.

## **7 EQUALITIES**

- 7.1 None identified.

# **ITEM K**

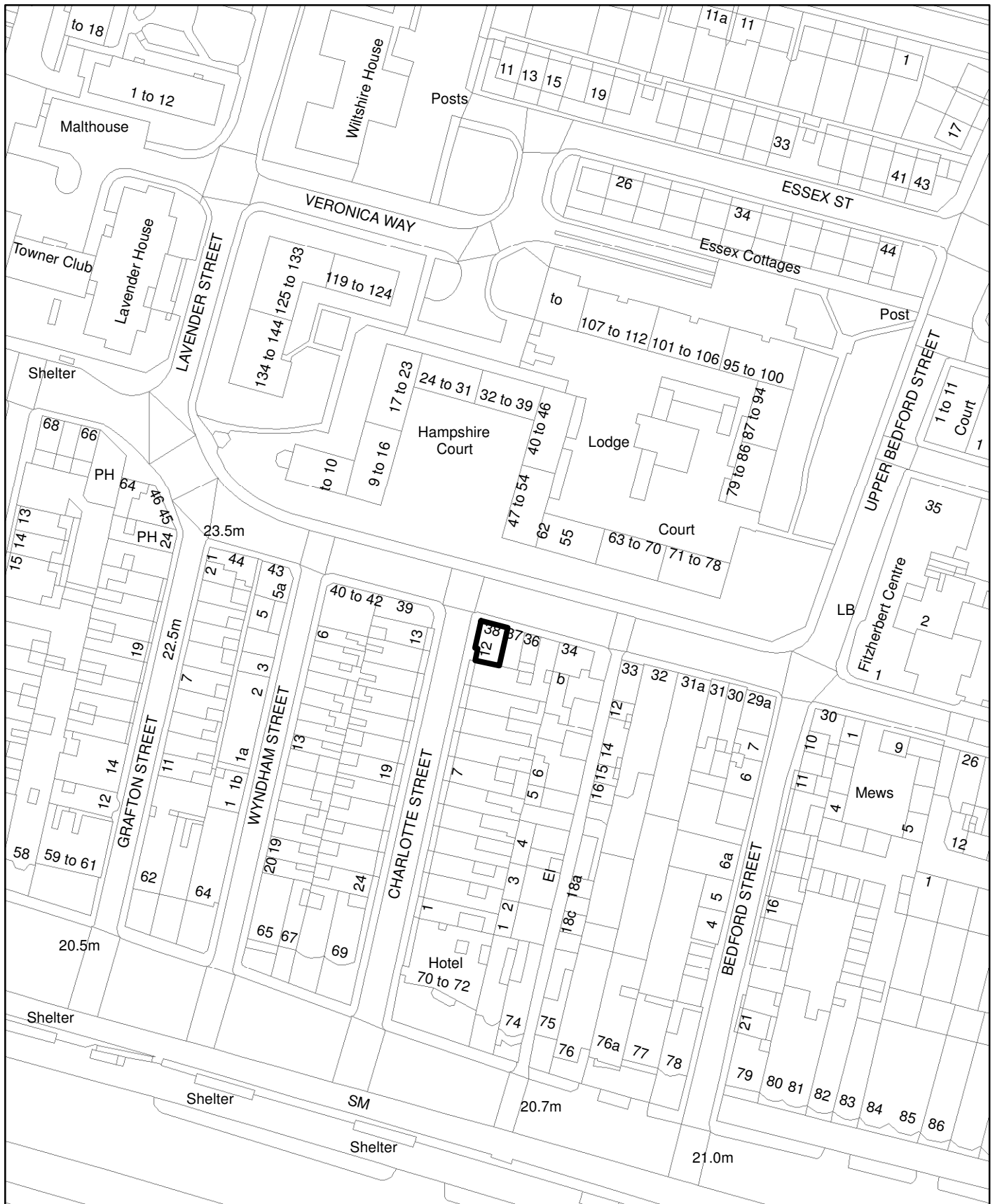
**38 Upper St James St, Brighton**

**BH2016/00945  
Full Planning**

**DATE OF COMMITTEE**



# BH2016/00945 38 Upper St James Street, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**





<b><u>No:</u></b>	<b>BH2016/00945</b>	<b><u>Ward:</u></b>	<b>Queen's Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>38 Upper St James Street Brighton</b>		
<b><u>Proposal:</u></b>	<b>Change of use from retail (A1) to café/restaurant (A3) (Retrospective).</b>		
<b><u>Officer:</u></b>	Charlotte Bush, tel: 292193	<b><u>Valid Date:</u></b>	01.08.2016
<b><u>Con Area:</u></b>	EAST CLIFF	<b><u>Expiry Date:</u></b>	26.09.2016
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>			
<b><u>Applicant:</u></b>	Metrodeco Ltd Ms Maggie Morgan 38 Upper St James Street Brighton BN2 1JN		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor Plans Proposed	02		23 September 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 use hereby permitted shall not be open to customers except between the hours of 08.30 - 22.00 Monday to Saturday and 08.30 - 21.30 on Sundays.  
**Reason:** To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 4 The sale of alcohol at the premises is restricted to 11.00 - 21.30 Monday to Saturday and 11.00 - 21.00 on Sunday.  
**Reason:** To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 5 Alcohol can only be sold at the premises to seated customers eating food on the premises.  
**Reason:** To safeguard the amenities of the locality and to comply with policy QD27 of the Brighton & Hove Local Plan.

6 The proposed layout, as shown in amended drawing 02, shall be retained at all times.

**Reason:** To safeguard the amenities of the locality 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 ground floor and lower ground floor commercial unit located in a 4 storey (plus basement) end of terrace building on the corner of Upper St. James's Street and Charlotte Street.

2.2 There is a wide mixture in the type of properties in the local vicinity, including residential houses and apartments, assisted housing for the elderly, pubs, hotels and shops.

2.3 The application site has been operating with temporary mixed A1/A3 for the last two years, as permitted under The Town and Country Planning (Use Classes) Order 1987 (as amended). The shop sells tea bags and tea related paraphernalia, which is also stored and packaged for the ancillary on-line business. In February 2014 the occupiers of the property notified the Local Authority that they would be operating within A3 use class for two years; functioning as a café selling hot and cold non-alcoholic drinks, a limited range of alcoholic drinks, and a selection of pre-prepared food. There are limited cooking facilities on site, including a single ring convector hob, two sandwich/panini makers, and a microwave.

2.4 The business does hold events at the premises and Temporary Events Notice is applied for on these occasions for extended opening and alcohol hours.

## **3 RELEVANT HISTORY**

3.1 None relevant

## **4 REPRESENTATIONS**

4.1 **Ten (10)** letters of representation have been received from **36 Upper St. James's Street (x5), Flat 2, 12 Charlotte Street (x2), Flat 1, 12 Charlotte Street, 11 Charlotte Street, 88a St James Street**, objecting to the proposed development for the following reasons:

- Was not sent a consultation letter or neighbour reference number.
- Neighbours were not notified of the temporary A3 change of use.

- Change to A3 use could facilitate the installation of a commercial kitchen.
- Number 38 lease is for A1 only.
- The proposed change of use does not meet all criteria a) to e) of policy SR6 to change this building's use.
- It is difficult to manoeuvre past groups of people sitting outside on the pavement or standing outside to smoke on the pavement.
- Patrons, deliveries and the tenants park on double yellow lines
- The loss of an A1 shop would reduce retail viability
- 38 Upper St James's Street is in a secondary retail and is a quiet area of East Brighton just outside the Cumulative Impact Zone and within the Special Stress Area designated by the Council. There is already provision of local drinking and eating establishments nearby.
- Noise pollution to local residents.
- Loss of privacy to No. 36 due to the noise and smoke pollution from those standing outside.
- The basement adjoins two residential homes, and the walls are Bungaroosh, i.e. porous and allowing for noise to carry. The parties are noisy and cause disruption to neighbouring properties.
- There can be considerable damp to Number 38's basement which is unsuitable for customers to sit in damp conditions.
- There is inadequate provision of toilet facilities with only one toilet for staff and customers and no accessible toilets for the disabled.
- Failure to abide by planning legislation.
- The drawing does not represent the correct size of the basement.
- The tenant of the lock-up shop at number 35 Upper St James's Street has commented in support of the application although he is not a resident of the street.
- Increased fire risk to the building and its residents from the preparation of hot food and drink.
- Increased safety risk to customers as the commercial unit only has escape routes on the ground floor and not any in the basement area.
- Increased health risk to the residents as the unsightly bin is situated outside the residential access front door.
- No provision or existing flue in the building to extract smoke, heat and smell from the commercial unit.
- Failure by the occupants to abide by an initial highways requirement in 2009 to provide a landscape barrier for the residents when granting a licence to place tables and chairs outside - only recently rectified.

4.2 **Councillors Daniel Chapman and Karen Barford** object to the proposed development. A copy of their representation is appended to the report.

4.3 **Two (2)** letters of representation have been received from **35 Upper St. James's Street** and an **unknown address in Bedford Street** supporting the proposal for the following reasons:

- The cafe is a great tea/coffee/restaurant not only to Kemptown but to Brighton as a whole.

- One of the foremost things that residents and visitors love about Brighton (Particularly North Laines and Kemp Town) are the individually owned/ run businesses that cannot be found anywhere else in the UK.
- It is a great restaurant that welcomes dogs, kids and people and serves great food and drink.
- Metrodeco does not encourage antisocial or unsavoury behaviour.
- Metrodeco has undoubtedly attracted more custom to the area.

## **5 CONSULTATIONS**

### **5.1 Environmental Health: Informal comment in response to queries regarding complaints about the changes to the use class over the last two years**

- 5.1 The department hasn't received any issues in the last two years.
- 5.2 In November 2010 the department received complaints that the premises did not have the correct licences but were applying for lots of temporary event licences till late at night, which were disturbing residents. The nuisance was never substantiated.
- 5.3 The premises applied for a alcohol and late night refreshment licence in 2011 in which the department made comments. By this time the premises had managed a number of temporary events without issue and the licence was granted.
- 5.4 In August 2011 the department were notified of an issue with the fan unit. This appeared to be an issue with the Temperature setting and was resolved quickly.
- 5.5 In August 2013 the department had a complaint about loud music from the premises but this was never substantiated.

## **6 Planning Policy: No objection**

6.1 No comment

## **7 Sustainable Transport: No objection**

- 7.1 Recommended approval as the Highway Authority has no objections to the above planning application.
- 7.2 Car Parking:  
Car parking arrangements would be as existing. Although, compared to the permitted use, a restaurant use may increase demand outside the hours of operation of the surrounding Controlled Parking Zone, it is not considered that this would be of a level where refusal would be warranted
- 7.3 Cycle Parking:  
SPG4 requires a minimum of two cycle parking spaces for a use of this nature. However, it is recognised that there are site constraints and as such this is not requested in this instance.

- 7.4 Trip Generation:  
Although the profile of trips may vary between retail and restaurant uses, it is not considered that there will be a substantial uplift as a result of the proposals.

## **8 MATERIAL CONSIDERATIONS**

- 8.1 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

- 8.2 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.

- 8.3 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.

## **9 POLICIES**

- 9.1 The National Planning Policy Framework (NPPF)

- 9.2 Brighton & Hove City Plan Part One

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

- 9.3 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  
SR6 Local centres  
HE6 Development within or affecting the setting of conservation areas

- 9.4 Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations  
SPD13 Parking Standards

## **10 CONSIDERATIONS & ASSESSMENT**

- 10.1 The main considerations in the determination of this application relate to the acceptability of the change of use and its impact on the vitality and viability of the shopping centre and upon the amenities of the surrounding area.

- 10.2 The proposal is for the permanent change of use of the basement and ground floors from A1 (retail) to A3 (restaurants and cafes), consisting of:
- 10.3 Basement: storage areas and office, toilet, customer seating area.  
Ground floor: food preparation area with a single ring convactor hob, two sandwich/panini makers, and a microwave; customer seating area, and retail area.
- 10.4 The application site has been operating with temporary A3 use for the last two years, as permitted under The Town and Country Planning (Use Classes) Order 1987 (as amended). The shop sells tea bags and tea related paraphernalia, which is also stored and packaged for the ancillary on-line business. The café offers hot and cold drinks, a limited food menu, afternoon teas, cocktails, beers and spirits.
- 10.5 The application site is located within the St George's Road local shopping centre where policy SR6 applies. Policy SR6 recognises the importance of maintaining retail shops which serves the local community.
- 10.6 Policy SR6 states that:
- The change of use of existing Class A1 use shops to Class A2, A3, A4 or A5 uses will be permitted, provided that all of the criteria, a) to e), are met:
- a. it would not result in either the number of non-retail units or the proportion of frontages exceeding 35% of the centre;
  - b. it has been adequately demonstrated that a Class A1 retail use is no longer economically viable in that particular unit or the centre as a whole;
  - c. the proposed use would attract pedestrian activity (particularly in the daytime) which would make a positive contribution to the vitality and viability of the centre;
  - d. the development would not be significantly detrimental to the amenities of occupiers of nearby residential properties or the general character of the area; and
  - e. the location and prominence of the proposed use would not lead to a significant break of more than 10 metres in the frontage.
- 10.7 A mapping exercise has taken place and 61.86% of the shop fronts in this local shopping centre are A1 retail use class. It is therefore considered that there are adequate retail units to serve the local community and would ensure a healthy balance and mix of uses is provided. The proposal will still attract pedestrian activity to the centre. Given the limited parking facilities in the area, it can be reasonably assumed at that least some of the patrons will walk to the venue.
- 10.8 It is therefore considered in this instance, where the a significant number of A1 retail units will remain, that the granting of permanent A3 usage is appropriate and will enable an established local business to continue; attracting visitors to the area and improving local economic viability.

- 10.9 It is considered that the proposed use would make a positive contribution to the vitality and viability of the local shopping centre.
- 10.10 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.
- 10.11 The main concern from neighbours is the impact of the proposed use on the amenities of adjacent occupiers and the wider area.
- 10.12 The use of the premises as a café/restaurant (A3) could potentially result in a more intensive use of the property than A1 use. However, the Environmental Health team has reported that they have not received any complaints in the two years since the temporary licence to A3 use has been granted. The permanent change in use class is therefore not considered to pose any additional harm on local amenity. However, conditions to limit the sale of alcohol to 11.00 - 21.30 pm Monday to Saturday, 11.00 - 21.00 on Sundays and 11.00 - 01.00 on New Year's Eve; and restricting the opening hours to 08.30 - 22.00 Monday to Saturday and 08.30 - 21.30 on Sundays are attached. This condition will limit disruption and noise pollution to nearby properties. An additional condition restricting the sale of alcohol to seated customers eating food on the premises is also required to protect the amenity of neighbouring properties.
- 10.13 A condition securing the current layout is also recommended to be attached. The existing store rooms and office are located on the lower ground floor, below the adjoining property and with a shared party wall with a residential property. Securing the current layout will ensure that these areas are not used for additional seating for customers, and protect the adjoining properties from associated noise.
- 10.14 Sustainable Transport:  
There is not forecast to be a significant increase in person or vehicle trip generation as a result of the change of use. No cycle parking is proposed, however it is recognised that site constraints limit the opportunities for providing it on this occasion.

## **11 EQUALITIES**

- 11.1 None identified





<b>PLANNING COMMITTEE</b>	<b>Agenda Item 58</b> Brighton & Hove City Council
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**Information on Pre-application Presentations and Requests 2016**

<b>Date</b>	<b>Address</b>	<b>Ward</b>	<b>Proposal</b>
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.
tbc	Preston Barracks/Mithras House/Watts Car Park, Lewes Road, Brighton	Hollingdean & Stanmer and Moulsecoomb & Bevendean	Mixed use development comprising research laboratory, student accommodation, University teaching facilities, residential, retail and parking.
tbc – 11 <sup>th</sup> October requested	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 <sup>th</sup> September	Life Science Building, Sussex University	Hollingdean & Stanmer	17,000sqm teaching space and café.
13 <sup>th</sup> September	Boots, North Street/Queen's Road, Brighton	St Peters & North Laine	Demolition of existing building and construction of new retail store.
2 <sup>nd</sup> August	Medina House, 9 Kings Esplanade, Hove	Central Hove	Demolition of existing building and construction of a new dwelling.
2 <sup>nd</sup> August	Land at Blackman Street/Station Street/Cheapside, Brighton	St Peters & North Laine	Proposed new B1 office building.
12 <sup>th</sup> 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 space and strategic landscaping. New vehicular access from Ovingdean Road and junction improvements.

**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.**



#### NEW APPEALS RECEIVED

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****GOLDSMID**

APL2016/05011

17 Denmark Villas, Hove, BN3 3TD

Erection of single storey rear extension.  
(Retrospective)

APPEAL IN PROGRESS

01/09/2016

Not Assigned

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****HOVE PARK**

APL2016/05001

50 Hill Drive, Hove, BN3 6QL

Demolition of existing garage and erection of two storey side extension with associated roof extensions, single storey rear extension and new front porch. Installation of solar panels, revised fenestration incorporating alterations to existing rear dormers an associated works.

APPEAL IN PROGRESS

01/09/2016

Not Assigned

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****NORTH PORTSLADE**

APL2016/05003

STREET RECORD, Rowan Close, Portslade  
(Land To The Rear of 2-8 Rowan Close Portslade)

Erection of 2no. three bedroom detached houses.

APPEAL IN PROGRESS

07/09/2016

Not Assigned

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****REGENCY**

APL2016/05004

BATHURST, 2 Clarence Square, Brighton, BN1  
2ED (2 Clarence Square Brighton )

Creation of roof terrace to rear and replacement of existing window with new door to access roof terrace.

APPEAL IN PROGRESS

05/09/2016

APPLICATION DECISION LEVEL Not Assigned

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**WARD**

**ROTTINGDEAN COASTAL**

APPEALAPPNUMBER

APL2016/05000

ADDRESS

60 Wanderdown Road, Brighton, BN2 7BT

DEVELOPMENT DESCRIPTION

Erection of extension to existing front garage and landscaping works to front garden.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

01/09/2016

APPLICATION DECISION LEVEL

Not Assigned

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**WARD**

**ROTTINGDEAN COASTAL**

APPEALAPPNUMBER

APL2016/05006

ADDRESS

2 Meadow Close, Rottingdean, Brighton, BN2 7FB

DEVELOPMENT DESCRIPTION

Erection of a one/two bedroom chalet bungalow with associated off - street parking and landscaping.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

05/09/2016

APPLICATION DECISION LEVEL

Not Assigned

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**WARD**

**WISH**

APPEALAPPNUMBER

APL2016/05012

ADDRESS

FIRST FLOOR AND SECOND FLOOR, 3 Marine Avenue, Hove, BN3 4LH (First and Second Floor Flat 3 Marine Avenue Hove)

DEVELOPMENT DESCRIPTION

Creation of dormer and installation of rooflights to rear.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

12/09/2016

APPLICATION DECISION LEVEL

Not Assigned

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**WARD**

**WITHDEAN**

APPEALAPPNUMBER

APL2016/05002

ADDRESS

9 The Beeches, Brighton, BN1 5LS

DEVELOPMENT DESCRIPTION

Conversion of existing garage to 1no three bedroom dwelling (C3) with associated alterations including side and rear extensions and revised fenestration.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

02/09/2016

APPLICATION DECISION LEVEL

Not Assigned

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**WARD**

**WITHDEAN**

APPEALAPPNUMBER

APL2016/05005

ADDRESS

The Parade Valley Drive Brighton BN1 5FQ

<u>DEVELOPMENT DESCRIPTION</u>	Erection of two storey building comprising of commercial unit (A1/A2/B1) at ground floor and 1no two bedroom flat above.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	07/09/2016
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

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**Brighton & Hove  
City Council**

### INFORMATION ON HEARINGS / PUBLIC INQUIRIES

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**This is a note of the current position regarding Planning Inquiries and Hearings**  
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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:	
Type of appeal:	Public Inquiry against Non Determination
Date:	1 <sup>st</sup> November 2016, Brighton Town Hall
Location:	Wanderdown Road , Ovingdean,

Planning application no:	BH2014/03394
Description:	Demolition of exiting 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:	
Type of appeal:	Public Inquiry Against Refusal
Date:	29 <sup>th</sup> November 2016, Hove Town Hall
Location:	Land adjacent 6 Falmer Avenue Saltdean

Planning application no:	2013/0323
Description:	Works not permitted development
Decision:	
Type of appeal:	Public Inquiry Against Enforcement
Date:	20 <sup>th</sup> December 2016 Brighton Town Hall
Location:	43 Freshfield Road, Brighton

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:	Public Inquiry Against Refusal
Date:	15 <sup>th</sup> November 2016, Brighton Town Hall
Location:	The Astoria 10-14 Gloucester Place Brighton



**Brighton & Hove  
City Council**



**APPEAL DECISIONS**

	<b>Page</b>
<b>A – 6 ROEDEAN CRESCENT, ROTTINGDEAN, BRIGHTON – ROTTINGDEAN COASTAL</b>	<b>245</b>

Application BH2016/00964 – Appeal against refusal to grant planning permission for demolition and re-development of a single housing plot to create a six bedroom house on 3 levels **APPEAL ALLOWED** (delegated decision)

<b>B – 53 BARCOMBE ROAD, BRIGHTON – MOULSECOOMB &amp; BEVENDEAN</b>	<b>251</b>
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Application BH2016/00252 – Appeal against refusal to grant planning permission for proposal described as permitted development loft conversion (certificate of lawfulness granted and works completed). Change of use from 5 bed HMO to 7 bed HMO. Retrospective application **APPEAL ALLOWED** (delegated decision)

<b>C – 16 RILEY ROAD, BRIGHTON – MOULSECOOMB &amp; BEVENDEAN</b>	<b>255</b>
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Application BH2016/00344 – Appeal against refusal to grant planning permission for conversion of existing garage to 1. No studio apartment **APPEAL DISMISSED** (delegated decision)

<b>D – UNIT 6, CROWHURST ROAD, BRIGHTON – PATCHAM</b>	<b>259</b>
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Application BH2015/00443 – Appeal against refusal to grant planning permission for retrospective change of use of internal floor space on first floor from vacant office space to operational residential use (Class C3 ) **APPEAL DISMISSED** (delegated decision)

<b>E – 72 ROTHERFIELD CRESCENT, BRIGHTON – PATCHAM</b>	<b>263</b>
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Application BH2015/03920 – Appeal against refusal to grant planning permission for creation of single 2/3 bedroom detached dwelling **APPEAL DISMISSED** (delegated decision)

**F – 107 BEACONSFIELD VILLAS, BRIGHTON – PRESTON PARK 265**

Application BH2015/04002 – Appeal against refusal to grant planning permission for external works to maisonette (107) and lower ground flat (107B) comprising erection of new rear balcony/terrace serving 107, replacement of existing rear bay windows to 107 and 107B, other minor alterations to rear elevations of 107 and 107B, erection of panel screening on rear north boundary, and installation of glazed barrier to perimeter of light well to front elevation of 107. **APPEAL DISMISSED** (delegated decision)

**G – 12A QUEEN’S ROAD, BRIGHTON – ST PETER’S & NORTH LAINE 269**

Application BH2016/00398 – Appeal against refusal to grant planning permission for change of use from A1 to A5 to form a noodle bar take away shop **APPEAL ALLOWED**(delegated decision)

**H – 29 DEAN STREET, BRIGHTON – REGENCY 275**

Application BH2016/00912 – Appeal against refusal to grant planning permission for roof works to provide habitable room in loft **APPEAL DISMISSED** (delegated decision)

**I – 8C CLARENCE SQUARE, BRIGHTON – REGENCY 279**

Application BH2015/02198 – Appeal against refusal to grant planning permission for replacement of existing roof with new mansard with rear terrace. Replacement of rear roof with lower terrace **APPEAL DISMISSED** (delegated decision)

**J – 55 WOODLAND DRIVE, HOVE – HOVE PARK 283**

Application BH2016/00549 – Appeal against refusal to grant planning permission for remodelling of the existing dwelling including alterations and raising of the roof height to facilitate the creation of an additional storey. Erection of a porch and canopy and the creation of a garage at lower ground floor level to the front elevation. Alterations and enlargement of the existing rear patio; creation of access steps to either side of the dwelling; revised fenestration and associated works. **APPEAL ALLOWED** (delegated decision)

**K – 32 HOVE PARK WAY, HOVE, – HOVE PARK 285**

Application BH2016/00636 – Appeal against refusal to grant planning permission for loft conversion and external alterations **APPEAL DISMISSED** (delegated decision)

**L – 9 REYNOLDS ROAD, HOVE – WESTBOURNE 287**

Application BH2016/00067 – Appeal against refusal to grant planning permission for demolition removal of internal wall and garage conversion to habitable room **APPEAL ALLOWED** (delegated decision)

**M – 212 MILE OAK ROAD, PORTSLADE – NORTH PORTSLADE 289**

Application BH2015/04021 – Appeal against refusal to grant planning permission for demolition of existing out buildings and erection of an ancillary annexe **APPEAL DISMISSED** (delegated decision)



## Appeal Decision

Site visit made on 12 September 2016

by **C. Jack, BSc(Hons) MA MA(TP) MRTPI**

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

Decision date: 21<sup>st</sup> September, 2016

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### Appeal Ref: APP/Q1445/W/16/3152750

#### 6 Roedean Crescent, Brighton BN2 5RH

- 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 Richard Page against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/00964, dated 16 March 2016, was refused by notice dated 11 May 2016.
  - The development proposed is the demolition and re-development of a single housing plot to create a six bedroom house on 3 levels.
- 

#### Decision

1. The appeal is allowed and planning permission is granted for the demolition and re-development of a single housing plot to create a six bedroom house on 3 levels at 6 Roedean Crescent, Brighton BN2 5RH in accordance with the terms of the application, Ref BH2016/00964, dated 16 March 2016, subject to the conditions set out in the Schedule to this decision.

#### Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

#### Reasons

3. Roedean Crescent is an established residential street comprising a wide variety of substantial detached houses. It is located towards the eastern edge of the city, in an elevated position above Brighton Marina. As existing, 6 Roedean Crescent (No 6) is a two-storey detached house in Tudor style, set notably down from the road and screened to a significant degree by mature vegetation at the front. The proposed development is to replace the existing house with a three-storey house of modern design, utilising a palette of comparatively traditional materials.
  4. In general, properties on the northern side of Roedean Crescent are set on rising land above the road, with properties on the southern side being set down from the road. This has resulted in a number of properties, particularly on the northern side of the road, being particularly prominent in the street scene, including several examples of substantial three-storey rebuilds or refurbishments of modern design and materials. I saw during my site visit that some of these houses are immensely striking, both from Roedean Crescent and in wider views, including from the main coast road. These now form a strong element of the already eclectic mix of styles and ages of houses and the range of materials that contribute to the general character and appearance of
-

- Roedean Crescent. In this context, the proposed dwelling of patently modern design would not be generally out of character with the wider street scene.
5. The main parties agree that the principle and the scale of the proposed development are acceptable, and I see no reason to disagree. Notwithstanding this, the Council is principally concerned that the proposal would harm the character and appearance of 'this part of' Roedean Crescent, in the immediate vicinity of the appeal site, rather than necessarily the wider street scene. In this part of Roedean Crescent, on the southern side, there is a row of Tudor style houses that are similar to each other but have somewhat varying sizes, layouts and detailing. No 6 sits roughly midway along this row, where the houses are among the least prominent in Roedean Crescent, being set below the road and generally screened at least in part by boundary walls and mature vegetation. Of these properties, No 6 is a particularly unobtrusive example due to its screening and degree of set down from the road. On the opposite side of the road the eclectic mix of properties seen elsewhere in Roedean Crescent continues.
  6. The proposed modern design would result in a house of strikingly different appearance to the existing property and its neighbours. However, it would be well set down into the site and as a result, despite being set forward of the existing footprint, it would not be prominent in the street scene. The new house would have a respectful relationship with the adjacent buildings, having adequate separation from them and similar overall height. The building, which would appear essentially two-storey from the road with the entry level being on the first floor, would further add to the eclectic mix of designs and juxtapositions between properties already evident in the road.
  7. Furthermore, given the wide variety of design solutions in the road, including some very imposing modern properties, I consider that this modern solution, albeit different from the other examples, would not adversely affect the diverse character and appearance of the wider street scene. Moreover, this area is not subject to any special protection and there is also no significant evidence before me that the existing Tudor style house particularly merits retention in this location.
  8. I am mindful of the good design requirements of the National Planning Policy Framework (The Framework), including Paragraph 60 and the need to avoid stifling design, imposing particular styles or tastes, or requiring certain development styles. While I note that the Council does not seek to prevent modern designs *per se*, and indeed has permitted examples nearby, I am not persuaded that the appeal proposal would be harmful in this part of the road and I consider that it would be generally consistent with the good design aims of The Framework. For these reasons, the design, siting and bulk of building would not harm the character and appearance of this part of Roedean Crescent.
  9. I note the Council's concerns that the existing boundary vegetation within the site cannot be relied upon to permanently preserve or screen views of the site. While this may be true, I have found that the proposed development would not be harmful to the character and appearance of the area and I consider this would be fundamentally the case with or without the existing front boundary vegetation, albeit vegetation would, as is often the case, help to soften and assimilate the building into its surroundings. Nonetheless, removing front

vegetation is apparently not the appellant's intention since the submitted plans show planting along the front boundary, excepting the access points. Appropriate landscaping would be beneficial to the character and appearance of the development and details could be reasonably addressed by way of a landscaping condition.

10. The Council is also concerned that the proposed traditional materials are not suitable in association with the modern design. I accept that a large expanse of hanging tiles is proposed, which in a more visually prominent location may serve to accentuate the uniform expanses of walls and the strong lines of the proposed design. However, as this building would not be prominently positioned the extensive use of hanging tiles would not have any such significant impact on the character and appearance of the area.
11. Notwithstanding, the use of the right traditional materials would be crucial to successfully assimilate the proposed design into this part of the road and ensure a high quality finished development. Traditional materials are most prevalent in the immediate vicinity and their use with the proposed design would be more suitable than modern materials in this instance, helping to integrate the building. However, I consider that in order for the use of traditional materials to be fully successful with the proposed design, and help to reinforce local distinctiveness, it would be necessary to ensure they are sympathetic to the area, including in terms of colour, texture, and quality. This could be reasonably addressed by way of a condition requiring the prior approval of samples.
12. I note that some materials, such as bungaroosh, are not necessarily associated with this area of the city; however the extent of its proposed use in this case is relatively limited and it nevertheless remains a characteristic material of the Brighton area more generally. Accordingly I do not consider that this would adversely affect the character and appearance of the area in this instance. For these reasons I consider that the proposed use of relatively traditional materials for the proposed development would not harm the character and appearance of this part of Roedean Crescent or the wider street scene.
13. In light of my reasoning above, I conclude that the proposed development would not harm the character and appearance of the area. Accordingly, I find no conflict with adopted Policy CP12 of the Brighton and Hove City Plan Part One 2016, which among other things expects development to raise the standard of architecture and design. I also find no conflict with retained Policy QD5 of the Brighton and Hove Local Plan 2005, which seeks to ensure that development has interesting and attractive frontages.

### **Other Matters**

14. I have also had regard to the various matters raised by interested parties, including that the proposal would result in overlooking and that incorrect bus services have been referenced. The Council considered overlooking in its report and concluded that the design had regard to the privacy of neighbours and so the development would not be likely to significantly affect neighbouring living conditions in this respect. There is no significant evidence before me that the proposal would result in a harmful impact on privacy from overlooking and therefore I see no reason to disagree with the Council's findings in this regard.

15. The bus service described in the application may be incorrect. Either way, given that the development proposed is acceptable in principle as a one for one replacement of an existing dwelling within a built up area, this is not a factor against which it would be reasonable to withhold planning permission in this instance. Accordingly, the various other matters raised do not outweigh my findings in respect of the main issue above.

### **Conditions**

16. I have considered the list of suggested conditions provided by the Council. In addition to the standard time limit, I have imposed a condition specifying the approved plans as this provides certainty. Conditions requiring samples of external materials and in relation to landscaping are necessary in the interests of character and appearance. The provision of cycle parking and the crossover and access are necessary to ensure the satisfactory and sustainable operation of the completed development. Conditions relating to energy performance and water efficiency are also necessary in the interests of sustainable development.
17. I consider that the removal of national permitted development rights is not necessary as I have no significant evidence before me of clearly justified exceptional circumstances.
18. I have considered the appellant's suggestion that the standard water efficiency requirement of 125 litres per person per day should apply. However, I note from the Council's submission that the standard it currently requires is the 'optional requirement' of 110 litres, as detailed in the Building Regulations 2015. I have therefore specified the 110 litres standard in the condition, and I note that the Council has also provided some information as to how this requirement may be achieved.

### **Conclusion**

19. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should succeed.

*Catherine Jack*

INSPECTOR



### **SCHEDULE OF 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: Location Plan; A100; A101; A102; A103; A104; A105; A107; A108; A109; A110; A111; A112; A113; A114; A115; A116 and A117.
- 3) No development above ground floor slab level 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. Samples required shall include:
  - a) all brick, render and tiling, including details of the colour of render/paintwork
  - b) all cladding, including details of treatment to protect against weathering
  - c) all hard surfacing materials
  - d) the proposed window, door and balcony treatments.Development shall be carried out in accordance with the approved details.
- 4) The development shall not be occupied until a scheme and timetable of landscaping have been submitted to and approved in writing by the local planning authority. The scheme and timetable shall include details of:
  - a) existing and proposed ground levels
  - b) all hard surfacing
  - c) all boundary treatments
  - d) all proposed planting, 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 and timetable. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings 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.
- 5) The development shall not be occupied until space has been laid out within the site in accordance with the approved plans for bicycles to be parked and that space shall thereafter be kept available at all times for the parking of bicycles.
- 6) The development shall not be occupied until the crossover and access have been completed in accordance with the approved plans.

- 7) The development shall not be occupied until an energy efficiency standard of a minimum of 19% CO2 improvement over the requirements of the Building Regulations Part L 2013 (TER Baseline) has been achieved.
- 8) The development shall not be occupied until a water efficiency standard of 110 litres per day per person maximum indoor water consumption has been achieved.

## Appeal Decision

Site visit made on 23 August 2016

**by David Reed BSc DipTP DMS MRTPI**

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

**Decision date: 15<sup>th</sup> September 2016**

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**Appeal Ref: APP/Q1445/W/16/3150798**

**53 Barcombe Road, Brighton BN1 9JR**

- 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 BH2016/00252, dated 26 January 2016, was refused by notice dated 26 April 2016.
  - The development proposed is described as permitted development loft conversion (certificate of lawfulness granted and works completed). Change of use from 5 bed HMO to 7 bed HMO. Retrospective application.
- 

### Decision

1. The appeal is allowed and permission is granted for the change of use from five bedroom small house in multiple occupation (C4) to seven bedroom house in multiple occupation (Sui Generis) incorporating hip to gable roof extension, dormer to rear and front rooflights at 53 Barcombe Road, Brighton BN1 9JR, in accordance with the terms of the application, Ref BH2016/00252, dated 26 January 2016, subject to the attached schedule of conditions.

### Preliminary Matters

2. The building had already been extended and converted to a seven bedroom HMO on the date of the site visit.
3. The Council amended the description of the application in its decision notice, and in the interests of clarity and for completeness I have used this more detailed description in my formal decision.

### Main Issues

4. The main issues are:
  - whether the development provides acceptable living conditions for its occupiers; and
  - the effect of the development on the mix and balance of the community in the area and the living conditions of nearby occupiers.

### Reasons

#### *Living conditions*

5. No 53 Barcombe Road is a two storey end of terrace house in a line of similar properties. It is set behind a front garden and has a good sized garden to the rear. There is no dispute that the property has a lawful C4 use which

- comprised, until recently, five bedrooms together with a communal bathroom, wc, kitchen and living room.
6. A certificate of lawfulness for a loft conversion incorporating a hip to gable roof extension, dormer to rear and front rooflights was approved in October 2014 under Ref BH2014/03021 and such an extension has been constructed. According to the Council, the completed works do not correspond exactly with the alterations approved under the certificate, but due to this fall back position no objections are raised to the physical extension works that have been carried out to the building.
  7. Internally, the previous ground floor layout with its communal kitchen and living room remains unchanged. On the first floor, bedroom 3 has been reduced in size to install a staircase to the second floor but the communal bathroom and wc have not been affected. The second floor provides a further communal shower room/wc and two bedrooms, each with an individual sink.
  8. The two new second floor bedrooms are about 14 m<sup>2</sup> and 12.5 m<sup>2</sup> in size and are in fact the largest in the house. This excludes the area occupied by the communal shower room/wc which takes out a corner of each room. Contrary to the Council's view, this does not make the shape of either bedroom awkward or inconvenient to use. As part of the appeal, the appellant produced layout plans for the two bedrooms which demonstrate how a single bed, wardrobe and desk could be satisfactorily accommodated in each. My inspection confirmed this to be the case, even though double beds were in place and the desks were in different positions in the two rooms. The sloping ceiling does restrict the headroom available on one side of each room but only a small part is below head height and this does not seriously constrain their layout which includes a good sized area of full height circulation space.
  9. Bedroom 3 on the first floor is now about 9 m<sup>2</sup> in size, but the retained area is still sufficient to accommodate a single bed, desk, drawers and wardrobe with some circulation space as indicated on the layout plan and confirmed by my inspection. The other four bedrooms, unaffected by the alterations, are about 8, 9, 8.5 and 7.5 m<sup>2</sup> in size respectively. My inspection confirmed that the layout of the smallest room, bedroom 5, was very tight, but even in this case the bed, desk, wardrobe and shelves could be accommodated in a satisfactory way within the room.
  10. The communal kitchen, about 10 m<sup>2</sup> in size, contains the expected cooking and fridge facilities, a washing machine and a good range of storage cupboards and work surfaces. Although the two extra bedrooms increases the number of users of this kitchen from 5 to 7 persons it appears adequate for the number of occupiers given that they are unlikely to be all cooking at any one time. In addition, a communal living room about 10 m<sup>2</sup> in size is provided with a table and 2 chairs, TV and two sofas seating 5 people. Whilst the space for dining is limited to just two people at any one time, this is supplemented by the lounge area which provides informal, relaxed seating for five people. Again, this room appears adequate for the number of occupiers given that they are unlikely to be all using the room at the same time.
  11. I note that the space standard adopted by the Council in 2012 for HMO licence purposes is 9 m<sup>2</sup> for a kitchen without dining facilities to serve seven occupiers and a further 10 m<sup>2</sup> for a separate dining room. In this case the second room is laid out more as a lounge than a dining room but this could be rearranged in

future if necessary. Whilst these standards have been issued for the purposes of the Housing Act this lends support to the conclusion that the spaces provided are acceptable to accommodate seven persons. The property is clearly aimed at the short term student market rather than longer term occupiers for whom higher standards might be necessary.

12. The Council has issued the premises with an HMO licence for seven persons. Whilst planning legislation is clearly separate, the different remits of the two sets of legislation is not explained and the Council as local planning authority has not adopted any HMO space standards. A recent appeal<sup>1</sup> for the change of use of the adjacent property, No 52, to a nine bedroom HMO was dismissed despite the existence of an HMO licence. However, details of the layout and room sizes in that case have not been supplied. Since the current case involves two less bedrooms, it is unlikely to be directly comparable.
13. For these reasons I conclude that the development provides acceptable living conditions for its occupiers and therefore complies with saved Policy QD27 of the Brighton and Hove Local Plan 2005 (the Local Plan) which seeks to prevent material nuisance and loss of amenity to proposed and existing occupiers.

*Mix and balance of the community and living conditions of nearby occupiers*

14. The Council argue that the development is contrary to Policy CP21 of the Brighton and Hove City Plan Part One 2016 (the City Plan) which seeks to support mixed and balanced communities across the City and to ensure that a range of housing needs continue to be met. To this end applications for the change of use to an HMO will be resisted where more than 10% of dwellings within 50 m are already in HMO use.
15. In the case of 53 Barcombe Road there is no dispute that 6 out of 24 dwellings within 50 m are in HMO use, some 26% and well above the policy limit of 10%. If No 53 is included in the calculation the proportion is 29%. However, since the appeal property already has a lawful HMO use these proportions would not change if the appeal is allowed. As such, there is no conflict with Policy CP21. The development would not affect the range of housing types in the area, nor the number of HMOs, just increase the number of occupants within this particular HMO. Although the number of residents would increase from five to seven, this would only be a marginal increase within the neighbourhood as a whole and any effects arising from two extra people living in No 53 are unlikely to be significant.
16. At the time of the site visit the property appeared well managed with the front and rear gardens well maintained. There was no obvious difference between the standard of maintenance of the property and others in the area, whether HMOs or not.
17. For these reasons I conclude that the development would not significantly affect the mix or balance of the community in the area in compliance with Policy 21 of the City Plan, nor cause significant harm to the living conditions of nearby occupiers in compliance with Policy QD27 of the Local Plan. The latter seeks to prevent material nuisance and loss of amenity to adjacent residents.
18. The Council suggested four conditions should the appeal be allowed and I agree these meet the relevant tests. It is necessary to define the plans which have

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<sup>1</sup> APP/Q1445/W/15/3139159

been approved for the avoidance of doubt. It is also necessary to restrict the occupancy of the building to seven persons and ensure that the kitchen and living room are retained for communal use in order to ensure satisfactory living conditions for the occupiers. Finally, it is necessary to ensure secure cycle storage facilities are provided to encourage sustainable travel.

19. Having regard to the above the appeal should be allowed.

*David Reed*

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted has been assessed in relation to the following approved plans: 026-(PL)000, 26-(PL)001, 026-(PL)002, 026-(PL)003 and 026-(PL)004.
- 2) The development hereby permitted shall only be occupied by a maximum of seven persons.
- 3) The kitchen and living room identified on the existing and proposed plans shall be retained for communal living space purposes at all times and shall not be used as additional bedrooms.
- 4) The existing outbuilding to the rear shall be made available for secure covered cycle storage for a minimum of two bicycles and shall be retained for such purposes at all times.

## Appeal Decision

Site visit made on 12 September 2016

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 16<sup>th</sup> September 2016

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### **Appeal Ref: APP/Q1445/W/16/3151301 16 Riley Road, Brighton BN2 4AH**

- 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 Alex Squires of Squires Property against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/00344, dated 1 February 2016, was refused by notice dated 13 April 2016.
  - The development proposed is conversion of existing garage to 1 no. studio apartment.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues are the effect on: the living conditions for the occupiers of the development, with particular regard to outlook, light and external space; and the character and appearance of the street scene within Riley Road.

### **Reasons**

#### *Living Conditions*

3. The appeal premises comprise an integral garage at 16 Riley Road (No 16), a two storey, mid terrace property. The floor level of the garage is at a lower ground floor level in relation to the rest of No 16.
  4. The development would involve the conversion of the garage into a studio flat with a part mezzanine floor to the rear. To facilitate this conversion the garage door would be replaced with a domestic scale door and window, which would be capable of being screened by a sliding timber shutter. In addition the depth of the existing fanlight above the garage door opening would be increased. To the rear a door, with fanlight above, would be replaced by a pair of windows and some digging out of the floor would be undertaken to create headroom beneath the proposed mezzanine floor.
  5. I found the interior of the premises to be quite gloomy, with both the garage and rear doors open at the time of my mid-morning site visit, on what was a quite sunny day. I appreciate that the front mezzanine floor would be removed and that the new mezzanine floor would be of a lesser extent and that the dwelling would have a dual aspect. Nevertheless, I consider that the kitchen area beneath the new mezzanine level would receive an inadequate level of natural lighting, given the depth of the premises and the limited
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illumination that would be derived via the small high level window. I consider the inadequacy of the natural lighting within the kitchen area would be exacerbated by the fact that the illumination provided by the high level window would be via the constrained space between the garden wall marking the boundary between Nos 16 and 18 and No 16's two storey outrigger and this arrangement would in my judgement have significant implications for the receipt of light.

6. The outlook from the kitchen's window would be poor because of its high level and channelled nature, and when that is combined with the mezzanine floor above I find that the dwelling's interior at the rear would be quite claustrophobic.
7. The receipt of natural light and the level of outlook that would be possible to the front of the dwelling and at its mezzanine level would be better than the situation within the kitchen area. However, if for reasons of privacy the timber front screen was closed during the day time then both the level of natural lighting and outlook within the previously mentioned parts of the dwelling would be compromised. The possibility of sandblasting some of the glazing, while providing a means of privacy, would diminish the outlook that would be possible and is therefore something that I would not support.
8. While it is submitted that the dwelling '... would benefit from extremely high levels of natural light throughout the entire day' that assertion is not been supported by an objective lighting assessment. Accordingly, based upon the available evidence and my on-site observations, I am not persuaded that good levels of natural lighting would be available to the dwelling's occupiers.
9. In terms of external space it is submitted that the dwelling's occupiers would be able to use what would be a front yard, with an area of 3.6 square metres. This area would have a limited extent and would in part be occupied by two storage bins<sup>1</sup> and might be used for the parking of a bicycle, activities that would limit its utility as a sitting out area. This space, while being enclosed by walls to the front and sides, would nevertheless be open to view by passers-by and would therefore afford its users with little privacy. I therefore consider that the front yard would have very limited utility as an external space for the dwelling's occupiers and that it would inadequately meet their needs.
10. There is disagreement as to whether the dwelling would provide an adequate amount for floorspace. As the Council does not have an adopted floorspace standard either pre or postdating 1 October 2015 the 'Technical housing standards – nationally described space standard' of March 2015 cannot be relied upon. However, as I have found that the dwelling would be deficient in terms of the levels of natural lighting, outlook and outdoor space provision, the adequacy or otherwise of its internal floor area is not a decisive matter.
11. For the reasons given above I conclude that this dwelling would provide unacceptable living conditions for its occupiers. I therefore find that there would be conflict with retained Policies QD27 and HO5 of the Brighton and Hove Local Plan of 2005 (the Local Plan), insofar as the occupiers of the development would not be provided with an acceptable level of amenity, i.e. living conditions, both internally and externally.

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<sup>1</sup> As per the details shown on the proposed ground floor plan (drawing 110)



### *Character and Appearance*

12. The opening in the front elevation of the appeal premises is a large one and is quite unusual for the even numbered properties in Riley Road and the existing door has an undistinguished appearance. The creation of what would be a virtually fully glazed opening would maintain the uncharacteristic appearance of half of No 16's front elevation. However, I consider, on balance, that the proposed alterations would improve the appearance of No 16's front elevation, while having no negative effect upon the street scene in Riley Road. In this respect the reintroduction of a front boundary wall would help to assimilate this development into the wider street scene. I am therefore not persuaded that the fenestration alterations would have an inappropriate appearance within this particular context.
13. I therefore conclude that this development would not be harmful to the character and appearance of the street scene. In this respect I find there to be no conflict with Policy QD14 of the Local Plan and Policy CP12 of the Brighton and Hove City Plan Part One of March 2016 in that the alterations to the front of No 16 would not be harmful to their surroundings.

### **Conclusions**

14. While I have found that the external alterations would have an acceptable appearance, the dwelling would provide unacceptable living conditions for its occupiers, harm that I find to outweigh any benefits of this development. I therefore conclude that the appeal should be dismissed.

*Grahame Gould*

INSPECTOR



## Appeal Decision

Site visit made on 23 August 2016

by **David Reed BSc DipTP DMS MRTPI**

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

Decision date: 15<sup>th</sup> September 2016

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### **Appeal Ref: APP/Q1445/W/16/3150849 Unit 6, Crowhurst Road, Brighton BN1 8AF**

- 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 Bestway Wholesale Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/00443, dated 5 February 2016, was refused by notice dated 16 May 2016.
  - The development proposed is the retrospective change of use of internal floorspace on first floor from vacant office space to operational residential use (Class C3).
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### **Decision**

1. The appeal is dismissed.

### **Preliminary matter**

2. At the time of the site visit, one flat was established and occupied.

### **Main Issues**

3. The main issues are:
  - the effect of the proposal on the Hollingbury Industrial Estate; and
  - whether the flats would provide satisfactory living conditions for their occupiers.

### **Reasons**

#### *Hollingbury industrial estate*

4. The proposal is to establish 2 no. two bedroom flats on a mezzanine floor within the large Bestway cash and carry warehouse known as Unit 6 Crowhurst Road on the Hollingbury Industrial Estate. One is already in place. The mezzanine floor, now disused office space, is situated at first floor level on the southern side of the building overlooking a delivery and parking area with open space beyond. The associated changes to the external appearance of the building would be minimal.
5. The proposed flats would be wholly contained within the existing warehouse and are intended, initially at least, for use by the Manager and Deputy Manager of the business together with their families. It is not argued that there is a functional requirement for the presence of these staff on site at all times, but

- the proposal would make good use of surplus office space and would provide two permanent units of accommodation suitable for their use.
6. Hollingbury Industrial Estate is one of the main employment sites in the City and is specifically protected by Policy CP3 of the Brighton and Hove City Plan Part One 2016 (the City Plan) for business, manufacturing and warehouse uses. Comparable sui generis employment uses are also permitted providing they do not harm the continuation of the existing uses within the estate, but the policy makes no provision for residential uses, even in an ancillary capacity.
  7. The City Plan identifies a need for additional employment sites over the plan period and the associated Employment Land Study Review 2012 found that the established industrial estates remain popular with high occupancy and low vacancy levels. It is therefore important to protect the role of the Hollingbury Industrial Estate and avoid changes that might prejudice its long term future.
  8. The two flats (one is existing) would be located centrally within the Bestway cash and carry warehouse. It was clear from the site visit that the flats could potentially be affected by noise and disturbance arising from the operation of the warehouse, for example from moving machinery such as fork lift trucks, the refrigerated spaces below the proposed flats and deliveries from heavy goods vehicles outside. No mitigation measures are proposed and the reality is that potentially incompatible uses would be located in close proximity. Whilst the flats would initially be occupied by the managers of the premises, this may not always be the case, and the expenditure involved in creating valuable residential flats within the building may lead in time to pressure for other, non-managerial occupiers, and even those unconnected with the business.
  9. The current occupiers of the warehouse would no doubt avoid any significant conflict between the business operation and the residents of the two flats, but this cannot be presumed for all future occupiers and/or owners of the building who may have different objectives. The long term business/employment use of the building may therefore be prejudiced by the introduction of two permanent and valuable flats within the building, and this risk should be avoided.
  10. The Bestway building forms part of the wider industrial estate which should also be protected from the introduction of potentially incompatible uses. The flats would be some distance away from the other premises on the estate and would be separated from them by the host building. However, illustrating the concern, both the operators and owners of the nearby fruit market building object to the proposal on the basis that they work throughout the night when vehicle movements and other activity might lead to complaints which may in time prejudice their business operation.
  11. The benefits of the proposal for the current occupiers are fully appreciated and currently disused office space would be utilised. However, the proposal would introduce a potentially incompatible, long term residential use into business premises on an industrial estate which forms an important part of the Council's employment strategy. Restricting occupation of the flats to employees of the related business may not avoid all complaints and may not be enforceable in the long term given their permanence and the level of investment involved.
  12. For these reasons the proposal would be likely to prejudice the future use of the Hollingbury Industrial Estate, one of the main employment generating sites in the City, in conflict with Policy CP3 of the City Plan. This seeks to protect the

estate for business, manufacturing and warehouse use and resists changes which might harm the continuation of existing uses within those classes.

*Living conditions*

13. As explained in paragraph 8 above, there is potential for the occupiers of the flats to be adversely affected by noise and disturbance from the host warehouse. No evidence has been submitted that this is not the case, and assurances from the existing occupiers are not conclusive in this respect. Furthermore, the working hours of the premises and delivery times do not appear to be limited by condition and may change in future, so even the evenings and Sundays may not be relatively quiet periods in the longer term.
14. The Council's Environmental Health Officer is also concerned that there may be localised land contamination due to past commercial use as an engineering works. In addition, due to its age, the building may incorporate asbestos containing materials.
15. Both of the proposed flats would be used as a main home and having two bedrooms would be likely to accommodate families with children. This means that the size and standard of accommodation that would be provided is important. However, the main living room of the second flat would only be about 10.6 m<sup>2</sup> in size, which would be small for a family. In addition, as pointed out by a third party objector, neither flat would be provided with any external amenity space, thereby offering little opportunity for outdoor children's play or informal recreation.
16. For these reasons the two flats would not provide satisfactory living conditions for their occupiers and it is not clear that the environmental conditions offered would be suitable for long term residential occupation. This would be contrary to saved Policies QD27, SU10 and HO5 of the Brighton and Hove Local Plan 2005. These preclude development where it would cause material nuisance and loss of amenity to the proposed residents, require the impact of noise on occupiers to be assessed and minimised and thirdly require the provision of appropriate private useable amenity space in new residential development.

**Conclusion**

17. The proposal would provide two units of accommodation in a sustainable location which would be an important benefit of the scheme. However, having regard to the findings in relation to the two main issues, the appeal should be dismissed.

*David Reed*

INSPECTOR





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## Appeal Decision

Site visit made on 23 August 2016

by **David Reed BSc DipTP DMS MRTPI**

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

Decision date: 15<sup>th</sup> September 2016

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### **Appeal Ref: APP/Q1445/W/16/3150865 72 Rotherfield Crescent, Brighton BN1 8FP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Ms Donna Howard against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/03920, dated 22 October 2015, was refused by notice dated 6 May 2016.
  - The development proposed is the creation of a single 2/3 bedroom detached dwelling.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary matter**

2. The application was submitted in outline with all matters reserved for later determination. I have dealt with the appeal on this basis, treating the proposed block plan and floor plans as illustrative only.

### **Main Issues**

3. The main issues are the effect of the proposal on the character and appearance of the area and the effect of the proposal on the living conditions of the occupiers of Nos 72 and 74 Rotherfield Crescent in relation to outlook and amenity space.

### **Reasons**

#### *Character and appearance*

4. No 72 is a two storey semi-detached house on the south eastern side of Rotherfield Crescent in a well established residential area. The proposal is for a single detached house in the garden to one side of No 72, situated between the host property and the adjacent semi-detached house No 74.
5. The detached house would be introduced into the spacious gap between Nos 72 and 74, with the existing small single storey extension to the side of No 72 being removed to make way for it. At present Rotherfield Crescent is characterised by spacious side gaps between the pairs of semi-detached properties. The proposal would not conform to this existing development pattern, introducing instead a single detached dwelling into the gap between two pairs of houses. Whilst forming a spacious gap between properties, as a plot for a new house it would be narrow and an awkward shape for development.
6. In this low density housing area the gap between the new house and the host property, No 72, would be uncharacteristically narrow, and the house would also

extend hard up to the common boundary with No 74. As such, it would appear cramped within the street scene and the new house would have an unusual, non-rectangular footprint. This problem could not be mitigated by good design. The proposal would also result in the subdivision of the existing plot, introducing a much smaller plot size than the norm in the vicinity.

7. Consequently, when seen alongside the neighbouring houses, the detached house would appear as an incongruous, cramped development, out of character with the surrounding area. Although the proposal is in outline with all matters reserved, the constrained nature of the site means there is insufficient scope to overcome these fundamental problems with a revised layout.
8. For these reasons the proposal would cause significant harm to the character and appearance of the area in conflict with Policies CP12 and CP14 of the Brighton and Hove City Plan Part One 2016. These seek to raise the standard of architecture and design, establish a strong sense of place by respecting the character and urban grain of the neighbourhood, and ensure residential development is of a density that is appropriate on a case by case basis.

#### *Living conditions*

9. According to the illustrative plans the house would sit alongside the flank wall of No 72, respecting its front building line but extending somewhat to the rear. However, it would appear that this rearward extension would not be so great as to significantly affect the outlook from the nearest rear facing windows. On the other side, because No 74 is set well forward of No 72 and at an angle facing the road, only very oblique views of the new house would be seen in the outlook from its rear facing windows. Again, this would not cause any material loss of outlook for the occupiers concerned.
10. The proposal would involve the loss of the side garden of No 72. However, the garden to the rear of the property, several metres in depth, would be retained. Although somewhat restricted in size, this remaining area of garden would still provide a reasonable amount of external amenity space for the occupiers.
11. For these reasons the proposal would cause not significant harm to the living conditions of the occupiers of Nos 72 and 74 Rotherfield Crescent in relation to outlook or external amenity space. This would comply with saved Policies QD27 and HO5 of the Brighton and Hove Local Plan 2005 which preclude development where it would cause material nuisance and loss of amenity to adjacent residents and require the provision of private useable amenity space.

#### **Conclusion**

12. The proposal would provide a much needed house in a sustainable location. Whilst it would not harm the living conditions of nearby occupiers, the character and appearance of the area would be adversely affected. Because of this objection the proposal cannot be considered fully sustainable development and consequently the presumption in favour of such development does not apply in this case. The appeal should therefore be dismissed.

*David Reed*

INSPECTOR



## Appeal Decision

Site visit made on 12 September 2016

**by C. Jack, BSc(Hons) MA MA(TP) MRTPI**

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

**Decision date: 22<sup>ND</sup> September, 2016**

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**Appeal Ref: APP/Q1445/W/16/3152605**

**107 Beaconsfield Villas, Brighton BN1 6HF**

- 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 Wayne Taylor against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/04002, dated 5 November 2015, was refused by notice dated 19 May 2016.
  - The development proposed is external works to maisonette (107) and lower ground flat (107B) comprising erection of new rear balcony/terrace serving 107, replacement of existing rear bay windows to 107 and 107B, other minor alterations to rear elevations of 107 and 107B, erection of panel screening on rear north boundary, and installation of glazed barrier to perimeter of light well to front elevation of 107.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - i) Whether the proposed development would preserve or enhance the character or appearance of the Preston Park Conservation Area; and
  - ii) The effect of the proposed development on the living conditions of neighbouring occupants, with particular regard to privacy.

### Preliminary Matter

3. I saw during my site visit that some external alterations have already taken place, including the installation of a squared bay window at the rear of the maisonette known as 107 Beaconsfield Villas and two sliding sash windows at the rear of the garden flat known as 107B Beaconsfield Villas. These installations differ from the associated details shown on the plans subject to this appeal. I understand from the appellant's submission that this matter has been made the subject of a separate application to the Council. I will therefore determine the appeal on the basis of the plans and evidence before me.

### Reasons

4. Beaconsfield Villas is a wide residential street within the Preston Park Conservation Area (PPCA). The road is characterised by a mix of predominantly two-storey detached and semi-detached houses generally dating from the late 19<sup>th</sup> Century. The appeal property is a substantial detached red brick property, retaining many original features although some subsequent
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alterations can be seen. As with other properties in the immediate vicinity, it has a relatively small front garden and a substantial rear garden that slopes down towards further residential properties beyond. The house is divided into two residential units, a maisonette occupying the street-level and first floor above (No 107) and a garden flat occupying the lower ground floor (No 107B).

5. The building is currently undergoing internal and external refurbishment. The proposed development, which would be predominantly at the rear of the property, comprises the replacement of angled bay windows with squared bays, a raised terrace with glazed privacy screens, timber panel screening on the rear north boundary and alterations to cladding. There would also be a glazed screen installed around an existing light well at the front of the property.

*Character or appearance*

6. Taking the Council's dimensions, the rear terrace would measure approximately 5.6m wide by 3.5m deep. It would be supported by brick piers and have steps down to the garden below on one side. There would be 1.8m high obscured glazing on both sides of the terrace and a glazed balustrade along the front of the terrace, facing down the garden. The terrace would be accessed from the dining room of No 107 via glazed doors in the proposed replacement bay.
7. The terrace would be a substantial feature attached to the rear of the property. Despite its broadly restrained detailing, its height would make it a prominent structure that would be unlike any other visible nearby. The brick piers would be similar in appearance to other brick piers that have been installed in the garden where there are steps leading up the garden terraces towards the house. While the supporting piers themselves would be essentially in-keeping with these existing garden piers, they would nevertheless interfere with the view of the rear elevation of the house, particularly with regard to 107B and the bay window there. This would be harmful to the character and appearance of the host building.
8. I saw during my site visit that the existing timber steps leading from No 107 to the rear garden are in poor condition and did not appear safe for use without significant repair or replacement. I also acknowledge that No 107 and No 107B currently have shared use of the same private rear garden and I understand that the terrace is proposed to provide some outdoor space dedicated for No 107, together with replacement steps down to the garden. However, the visual impact of the proposed terrace would be significantly greater than the existing solution of simple timber stairs to access the rear garden, a solution which is also evident on some other properties in the vicinity. Furthermore, the proposed white opaque glass privacy screens would draw visual attention to the structure and would be out of keeping with the generally more traditional materials evident in the vicinity.
9. The proposed squared replacement bays would result in the loss of traditional sliding sash windows, which are characteristic of this part of the PPCA. While I note that there are examples of other squared bays nearby, including at the front of the host building, this does not outweigh the harm to the character and appearance of the building that would arise from the loss of the sliding sash windows, which also feature predominantly in the rest of the building.

10. With this in mind, the proposed replacement of the existing rear door of No 107 and the adjacent windows with two sash windows would be of some benefit to the appearance of the building. However, the associated loss of the existing timber detailing above the windows and replacement with plain timber cladding would be unfortunate, albeit I accept this is unlikely to be an original feature. The proposed screening panel on the boundary with 109 Beaconsfield Villas would be limited in size and constructed from timber and accordingly would have no significant effect on the character or appearance of the host building.
11. The front elevation of the building is attractive and imposing. It retains various original details, albeit it has been subject to some previous alterations, including the squared bay. While the proposed raised glass barrier around the existing light well would be positioned in front of the squared bay, it would introduce an alien feature at the front of the property, which despite its frameless structure would be visible from the street through the front accesses. It would therefore have an adverse effect on the character and appearance of the area.
12. For these reasons, I consider that the proposed development would harm the character and appearance of the host building and accordingly of the PPCA. However, I quantify the extent of this harm to the PPCA as being less than substantial in the context of paragraphs 133 and 134 of the National Planning Policy Framework. Such harm needs to be balanced against any public benefits the development might bring. While I recognise that there would be some benefits, including in terms of safety with regard to the existing timber stairs and the light well, and by providing some dedicated outdoor space for No 107. However, these would be very modest public benefits and other solutions are likely to be available to meet these purposes. Accordingly, the benefits of the proposed development do not outweigh the harm to the character and appearance of the PPCA that I have identified.
13. I conclude that the proposed development would fail to preserve or enhance the character or appearance of the Preston Park Conservation Area. It would therefore be contrary to Policy CP15 of the Brighton and Hove City Plan Part One 2016 (BHCP) and Policy HE6 of the Brighton and Hove Local Plan 2005 (BHLP), which among other things seek to conserve and enhance the city's historic environment, giving greatest weight to designated heritage assets, including conservation areas. It would also be contrary to Policy QD14 of the BHLP, which among other things seeks to ensure that alterations to buildings are well designed, sited and detailed in relation to the host property.

#### *Living conditions*

14. The height and location of the raised terrace would result in the potential for overlooking of adjacent gardens, particularly given its raised position in relation to the side boundary treatments. However, the proposed obscure glazed screening would ameliorate this to a large degree by effectively 'blinkering' views down the garden of the host property and thus preventing overlooking of the more sensitive upper garden areas closest to the rear elevations of the neighbouring properties at 105 and 109 Beaconsfield Villas, in particular.
15. Due to sloping ground, the appeal property and the neighbouring houses are set in an elevated position in relation to their rear gardens. This means that there is already significant scope for reciprocal overlooking of neighbouring gardens. As a result of the proposed privacy screens, I consider that the

terrace would not give rise to any significant exacerbation of overlooking beyond the existing situation. Therefore the proposed development would not result in a significant adverse effect on privacy.

16. For these reasons I conclude that the proposed development would not harm the living conditions of neighbouring occupants, having particular regard to privacy. Accordingly it would not conflict with retained Policy QD27 of the BHLP, which among other things seeks to ensure that development would not harm the living conditions of adjacent residents.

### **Other Matter**

17. I have considered the appellant's opinion that the Council's Supplementary Planning Document titled 'design guide for extensions and alterations' (SPD12) suggests that alterations to fenestration that are not visible from the street would not normally harm the character and appearance of a conservation area. However, with regard to new and replacement windows in conservation areas where they would be visible from the street, SPD12 is specifically concerned with the use of materials. From this, it cannot be meaningfully deduced that alterations not visible from the street would normally or inherently result in no harm to the character or appearance of the conservation area, as the appellant suggests, or indeed that they would preserve or enhance it as is statutorily required.
18. I have considered the effect of the proposed development on the character and appearance of the host building, understanding that the rear elevation cannot be seen from the street. It is however visible from other properties within the PPCA. Furthermore it is necessary to consider the effect of development on the conservation area as a whole, not only the parts that are visible from the street. Accordingly, I find nothing in SPD12 sufficient to outweigh my conclusions above in respect of character or appearance.

### **Conclusion**

19. While I have found no significant effect in relation to living conditions, I have identified harm in relation to the character and appearance of the PPCA, which would not be outweighed by the relatively modest public benefits of the proposed development. Therefore, for the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

*C Jack*

INSPECTOR

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## Appeal Decision

Site visit made on 12 September 2016

**by C. Jack, BSc(Hons) MA MA(TP) MRTPI**

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

**Decision date: 21<sup>st</sup> September, 2016**

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**Appeal Ref: APP/Q1445/W/16/3151328**  
**12A Queens Road, Brighton BN1 3WA**

- 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 Pavel Preobrazhenskiy against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/00398, dated 4 February 2016, was refused by notice dated 25 April 2016.
  - The development proposed is the change of use from A1 to A5 to form a noodle bar takeaway shop.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use from A1 to A5 to form a noodle bar takeaway shop at 12A Queens Road, Brighton BN1 3WA in accordance with the terms of the application, Ref BH2016/00398, dated 4 February 2016, subject to the conditions set out in the Schedule to this decision.

### Main Issues

2. The main issue is the effect of the proposed development on i) the vitality and viability of the Regional Shopping Centre and ii) the living conditions of nearby occupants, with particular regard to noise disturbance and odour.

### Reasons

3. Number 12A is a three-storey, plus basement, narrow-fronted building situated in a terrace on Queens Road in central Brighton. It has a traditional, predominantly glazed ground floor shop front. The ground floor and basement are currently in commercial use and the first and second floors are in separate residential use. Queens Road is a busy main route between Brighton train station and the city centre, with significant pedestrian footfall evident during my site visit. This area is defined as a 'prime frontage' within the Regional Shopping Centre. Queens Road currently includes a wide range of uses including retail, hotels, pubs, restaurants, offices, convenience stores, cafes, Army careers office, tanning shop, estate agents and residential (mostly above ground floor level).
  4. The proposal is to change the use of the existing commercial premises from A1 (retail) to A5 (hot food takeaway). No changes to the external appearance of the building are proposed, except for an extension of 1 metre
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in height to the existing extraction flue situated at the rear of the property. I am advised that a separate application is to be made to the Council for proposed alterations to the external signage.

*Vitality and viability*

5. Retained Policy SR4 of the Brighton and Hove Local Plan 2005 (BHLP) seeks to ensure that the number of units or proportion of frontages in non-retail use within defined prime frontages does not exceed 25% of the shopping street to which it relates. The Council considers the appropriate area to which the appeal proposal relates to be the area of Queens Road lying between North Street and Church Street and it has assessed the amount of current non-retail use on that basis. The appellant does not contest this approach and I see no reason to disagree. Nonetheless, there is some discrepancy between the resulting figures presented by the Council and the appellant. However, in either scenario the parties consider number of non-retail uses to currently fall within the range of approximately 29 – 34%, thereby already exceeding the 25% threshold set out in Policy SR4. The Council considers that the proposal would increase this exceedance to around 37%.
6. The existing business operating from the premises is known as the Green Chair. It has the appearance of a small café, with a number of seats and tables available both inside and immediately outside on the pavement. There is a serving area adjacent to the customer seating area and a small kitchen to the rear. In this regard the proposal would differ little from the existing operation, except that the front serving area would be replaced by a commercial wok. The customer seating area would remain, as would the kitchen to the rear.
7. The Council describes the existing use of the appeal premises as a sandwich shop. However, I saw during my site visit that while cold foods including wraps and salads were available for consumption on or off the premises, the menu also included a significant selection of hot foods, including full cooked breakfasts and chicken and rice dishes, which also appeared to be available for consumption on or off the premises. Hot food was being prepared in the kitchen during my visit. In this respect the proposal would again differ little from the existing operation, although I accept that the proportion of hot compared to cold food sold may be greater as proposed. As a result, while the difference in character between a retail use and a hot food takeaway can often be significant, I consider that this would not be the case here.
8. Moreover, the appeal premises are very small in comparison to many others in the area, with only a narrow street frontage, situated between the significantly larger dental health and beauty spa and Hope and Ruin pub next door on either side. I acknowledge the importance of retail provision within a Regional Shopping Centre. However, the overall effect on retailing in this area of prime frontage as a result of the change of use would be very limited, such that it would not have a significant impact on the overall function of the area. Furthermore, the proposal would add to the sustainable, diverse and complementary mix of uses in the area, where retail would nonetheless remain the predominant use, thereby making a proportionate positive contribution to local viability and vitality. In this

respect the proposal would also be generally consistent with Policy CP4 of the adopted Brighton and Hove City Plan Part One 2016 (BHCP), which amongst other things seeks to encourage a range of facilities and uses in shopping centres whilst preserving the predominance of retail uses.

9. Therefore, while I recognise that the proportion of non-retail uses in the area would remain above the 25% threshold as a result of the proposed change of use, I consider that this would not be harmful to the viability and vitality of the prime frontage or the wider Regional Shopping Centre in this instance. In contributing to the sustainable mix of uses in the area, the proposal would generate a small amount of additional local employment and help support the early evening economy, in accordance with the aims of the National Planning Policy Framework in respect of ensuring the vitality of town centres.
10. For the reasons given above, I conclude that while the proposal would be contrary to Policy SR4 of the BHLP because the specified threshold for non-retail uses would continue to be exceeded, the proposed change of use would nevertheless support rather than harm the vitality and viability of the Regional Shopping Centre.

#### *Living conditions*

11. Since the Council determined the application, additional information has been provided specifying the details of the proposed extraction equipment. This sets out that the existing extraction system would be upgraded, including the extension of the existing external flue by 1m so that it would expel above eaves level, thereby further from the nearby windows of the residential units above the appeal premises. I am satisfied that this, together with the specified extraction equipment, which would include odour filtration, would ensure that the proposal would not harm the living conditions of nearby residents as a result of cooking odours.
12. The submitted details show that the proposed extraction system has been designed to operate at noise emission levels between 30-33 dBa at 1 metre from the nearest residential unit. This would be notably lower than the average background readings at the rear of the premises submitted by the appellant of 64-68 dBa. The Council has not contested these figures and I see no reason to disagree. I am therefore also satisfied that the proposed extraction system would not result in any significant noise disturbance to nearby residents.
13. Nonetheless, in order to ensure that the living conditions of nearby residents are not harmed as a result of cooking odours or noise disturbance from the operation of the proposed extraction system, it would be necessary to secure its installation in accordance with the specified details, and maintenance and retention by condition.
14. I therefore conclude that the proposal would not harm the living conditions of nearby occupants, with particular regard to noise disturbance and odour. Accordingly I find no conflict with retained Policies SU10 or QD27 of the BHLP, which among other things seek to ensure that a change of use would not result in harm to living conditions, including as a result of noise and smells.

### **Conditions**

15. The Council has not provided a list of suggested conditions for me to consider. I have therefore had regard to the related comments and requests received during the process of the application. In addition to the standard three year time limit for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans, as this provides certainty. I have also imposed a condition to control the hours of opening for customers to those requested by the appellants in the interests of the living conditions of nearby residents. A condition to ensure the installation and on-going operation and maintenance of suitable extraction equipment is also necessary for the same reason. A condition to restrict a delivery service is not necessary as there are highway restrictions in place adjacent to the site to control loading in the interests of the free flow of traffic. I have also not imposed a condition to restrict deliveries to the premises since I have no significant evidence before me that this is necessary or reasonable in this circumstance.

### **Conclusion**

16. For the above reasons, and having considered all matters raised, I conclude that the appeal should succeed.

*C Jack*

INSPECTOR



### **SCHEDULE OF 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: P01; P02; P03; P04; P05; P06; P07; P08.
- 3) The premises shall only be open for customers between the following hours: 0900 - 2000 on Mondays – Fridays and 1100 – 2000 on Saturdays, Sundays and Bank or Public Holidays.
- 4) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with the following details as specified:
  - a) equipment brochure - C3 circular attenuators
  - b) equipment brochure F7 - west life rigid bag filters
  - c) equipment brochure FP - pleated G4 panel
  - d) equipment brochure - gigabox centrifugal fans
  - e) equipment brochure - stainless steel baffle filters
  - f) equipment brochure – standard discarb cells
  - g) extract system diagram B
  - h) extract system plan
  - i) extract system plan B.

All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with the approved details and retained for so long as the use continues.





## Appeal Decision

Site visit made on 6 September 2016

by **Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI**

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

Decision date: 21<sup>st</sup> September 20146

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**Appeal Ref: APP/Q1445/D/16/3152148**

**29 Dean Street, Brighton BN1 3EG**

- 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 Catherine Lane against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/00912, dated 14 March 2016, was refused by notice dated 11 May 2016.
  - The development proposed is roof works to provide habitable room in loft space.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the character and appearance of the host building and whether it preserves or enhances the character or appearance of the Montpelier & Clifton Hill Conservation Area (CA).

### Reasons

3. Under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in the exercise of planning powers in conservation areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The Council objects to the loss of the historic, shallow-pitched roof, which it considers is characteristic of this part of the CA. It supposes that the proposal would dominate the scale of the house, and have an awkward relationship with the roof of 30 Dean Street, next door.
  4. Dean Street is lined on both sides by striking terraces of early nineteenth century, Regency style, white-rendered, artisan houses with Classical-style mouldings, stepping down as the land falls towards the sea. The east side has a coherent array of two storey houses with canted bays, their pitched roofs set behind extended parapets and projecting cornices, which step rhythmically and consistently down the street. The side of the street which includes the appeal site is more varied in façade modelling. Its parapet line is less consistently stepped, and broken in places by houses extended to three, full storeys above street level. However, the terrace parapet retains an overwhelming scale of two storeys, in which development significantly above the parapet line is limited.
  5. The terraces reflect the historic contrast between the grander, more elaborate houses of the neighbouring, formal squares and the smaller scale buildings in streets like this, which may once have serviced them. The characteristic,
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shallow-pitched roofs set low behind the decorative parapets are still legible, distinctive components of the townscape of the terrace and a substantial part of the architectural character of the Conservation Area. The Council refers to the Conservation Area Character Statement which describes the buildings stepping down the hill 'with roofs generally concealed behind parapets' as being of note.

6. The proposed development to form an additional storey by adding a mansard roof in place of the shallow-pitched roof would change the characteristic two-storey scale of the building. The present architectural emphasis in the street, of the parapet line between the building and the sky above it, would be diminished by this additional development, which would be prominent in its elevation. The additional mass at roof level would weaken the rhythmic stepping of mass in the terrace, and undermine the unity and continuity of the similar form and mass across the roofs of Nos 29 and 30.
7. I note the reference to roof developments in the street, however, No 27's mansard sits between two buildings with parapets substantially higher on both its flanks; hence its impact on the balance of development above the parapet line, and in views up and down the street, is diminished. The extension to No 31 appeared to me to have a dual-pitched roof with a dormer rather than a mansard, and consequentially less impact on the roofscape above parapet level. I acknowledge that because of the height of No 28, views of the proposal from the north would be limited. However, it would be prominent in views from the south. I accept that the parapet and its stepping effect, which is an important element of the townscape of the terrace, would remain in its place. However, the development above it would be visually prominent in views across the street and from the south.
8. I recognise the attention in the detail of the proposal and its adherence to the technical specifications in the Council's Supplementary Planning Document 12: Design Guide for Extensions and Alterations (SPD). However, I note that the Guide caveats its preamble to the section describing the technical requirements of appropriate mansard forms. It says raising the ridge height or reshaping the roof structure is a significant change which will not be appropriate where the existing roof form is an important element of the building's character, or where it contributes positively to the local street scene. The CA Character Statement draws attention to the roofscape character in this street including roofs being concealed behind parapets as on this house, which are a part of the CA's architectural and historic significance. Notwithstanding the detail of the proposed mansard, in this context, it would not be an organic, natural addition reinforcing the original scale of the building as the appellant suggests, but an intrusion in the roofscape which would harm the significance of the CA.
9. The Council says that the Conservation Advisory Group did not object to the proposal, it giving weight to a similar development in the street. Whilst I have taken into account the roofscape of the street, including the examples of raised roofs, these are limited in number and effect, and outweighed by the contribution which the shallow-pitched roof makes to the townscape of the street and to the architectural and historic significance of the CA.
10. The appellant has suggested that the scheme would bring public benefits by retaining its viability for occupation as a dwelling, by masking the exposed, flank wall of No 28 and adding symmetry to similar houses in the street. However, there is no evidence that the use of the building as a dwelling is unviable

without this development. The roof extension might soften the flank wall of No 28, but this would not outweigh the harm identified above. While the mansard form may reflect examples in the street, these are relatively few, and their presence would not relieve the proposal of the harm it would cause to the symmetry and continuity of roof form across the roofscape of Nos 29 and 30.

11. Taking these factors into consideration, I conclude that the appeal proposal would harm the character and appearance of the host building. It would fail to preserve the Montpelier & Clifton Hill Conservation Area in accordance with the requirements of section 72 of the Act, the special attention to which, the Courts have determined, I am required to give considerable importance and weight. Although any harm to the Conservation Area would be less than substantial, it would be a noticeable and significant, adverse impact, by virtue of the positive contribution that the house and its shallow-pitched roof makes to the Conservation Area.
12. The contribution that the extension would make towards the economic and social dimensions of sustainable development through construction activity and additional living space would be modest and would not outweigh the harm that the proposal would cause to the Conservation Area. It would not be the sustainable development for which the National Planning Policy Framework 2012 (the Framework) indicates that there is a presumption in favour. I have borne in mind paragraph 132 of the Framework, that the significance of a designated heritage asset can be harmed or lost through alteration or destruction of the heritage asset. Also, at paragraph 17, that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
13. The proposal would conflict with Policy CP15 of the Brighton & Hove City Plan Part One 2016, which aims to conserve and enhance the city's historic environment in accordance with its identified significance. It would also be contrary to Policies QD14 and HE6 of the Brighton & Hove Local Plan 2005. These require proposals within a conservation area to reflect the scale and character of the area, including building lines and building forms, to show no harmful impact on the townscape and roofscape, and for alterations to buildings to be well designed in relation to the property to be extended as well as adjoining properties. It would be at odds too with the advice in the Council's Architectural Features Supplementary Planning Document 2009 which says that in conservation areas, where a roof is visible from the street, its form and shape must not be altered.

### **Other matters**

14. Whilst I have considered concerns from neighbours including in relation to the loss of sunlight and the discharge of roof water, given my findings on the main issue above, these have not led me to a different overall conclusion.

### **Conclusion**

15. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

*Patrick Whelan*

INSPECTOR



## Appeal Decision

Site visit made on 12 September 2016

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 16 September 2016

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### Appeal Ref: **APP/Q1445/W/16/3150922** **8C Clarence Square, Brighton BN1 2ED**

- 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 Nigel Massey against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/02198, dated 16 June 2015, was refused by notice dated 4 December 2015.
  - The development proposed is replace existing roof with new mansard with rear terrace. Replace rear roof with lower terrace.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are: the effect of the development on the appearance of 8 Clarence Square (No 8) and whether it, would preserve or enhance the character or appearance of the Regency Square Conservation Area (the CA) and; the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to privacy and noise.

### Reasons

#### *Character and Appearance*

3. The appeal property (No 8C) is an upper floor maisonette within a mid-terrace property (No 8). No 8's main roof has a simple pitched form over the front half of the property. No 8 is one of ten properties (Nos 1 to 10) that make up two sides of Clarence Square, a street that is essentially residential in character. Clarence Square is situated at the eastern extremity of the extensive mixed use CA.
  4. The appeal development comprises two elements. The first element would involve the conversion of No 8's main roof into a full mansard roof, with a front dormer and a parapet and a terrace to the rear. The second element would involve the removal of the rear outrigger's mono-pitched roof and its replacement with a roof terrace enclosed by a parapet.
  5. Mansard roofs are not prevalent in Clarence Square and the proposed mansard would alter No 8's basic roof shape and lead, in relative terms, to a significant increase in the roof mass, a change that would be visible from various vantage points in this street, given that the new ridge line would be
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close to the top of the chimney stack shared by Nos 7 and 8 and higher than that of Nos 7 and 9. The rear mansard level parapet would be an uncharacteristic feature for the junctions between eaves and roofs in Clarence Square. I am therefore of the opinion that the formation of this parapet would also contribute to the alterations to the main roof having a bulky appearance.

6. Although various roof alterations have been undertaken to the front or rear of Nos 4 to 7, those alterations have not involved the formation of a full mansard and have limited visibility within the street scene. On the opposite side of the square some full mansard and part mansard roofs are present. There is no recent planning history for these roof alterations, which suggests that they are of some age, and they are generally exceptions to the roofscape within this street. I therefore consider that those alterations do not provide a justification for the proposed mansard roof. I find that the proposed mansard roof would be a top heavy extension of No 8 and that this addition would unacceptably interfere with the simple rhythm of the prevailing roofscape within Clarence Square.
7. While the outriggers within the vicinity of No 8, including those to the rear of the adjoining properties in Russell Square, have varied roof forms, No 8's mono-pitched roof is of a form that would be expected for a property of this age. The introduction of a flat roof, concealed by a parapet, would be an uncharacteristic outrigger roof form, which would be out of keeping with No 8's appearance and that of the immediately surrounding area.
8. I conclude on this issue that the development would detract from the appearance of No 8 and would neither preserve nor enhance the CA's appearance. There would, however, be no affect on the CA's character in land use terms because No 8C would remain in residential occupation. Given the harm to the appearance of No 8 and the CA that I have identified there would be conflict with saved Policies QD14 and HE6 of the Brighton and Hove Local Plan of 2005 (the Local Plan); and the Council's supplementary guidance 'architectural features' and 'design guide for extensions and alterations', respectively of 2009 and 2013, because the roof alterations by departing from the original roof forms and interfering with the rhythm of the roofs within the area would be harmful to the appearance of No 8 and the CA's roofscape.

#### *Living Conditions*

9. I accept that some overlooking of neighbouring properties, most particularly those in Russell Square, would be possible from the roof terraces. However, this is a high density location with a number of multi storey properties in Clarence Square and Russell Square in close proximity with one another. The compactness of this street pattern means that close quarters mutual overlooking is characteristic of this area and the eye line of users of the terraces would be more likely to be drawn to the roofs opposite rather than the external areas or windows of the neighbouring properties.
10. Given the aforementioned context for the roof terraces, I find that their use would not give rise to any unacceptable overlooking and thus loss of privacy for the occupiers of the neighbouring properties. I also consider, given the scale of the terraces and the likely level of activity associated with their use, that their presence would not generate noise levels that would be disturbing.



11. On this issue I therefore conclude that the development would not be harmful to the living conditions for the occupiers of neighbouring properties. Accordingly no conflict with Policy QD27 of the Local Plan would arise because there would be no unacceptable loss of amenity for existing residents.

**Conclusion**

12. While I have found that there would be no harm to the living conditions for the occupiers of the neighbouring properties, there would be unacceptable harm to the appearance of No 8 and the development would not preserve or enhance the CA's appearance. I consider that any public benefits of the development would be outweighed by the harm arising from it. I therefore conclude that the appeal should be dismissed.

*Grahame Gould*

INSPECTOR





## Appeal Decision

Site visit made on 16 September 2016

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 26 September 2016**

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**Appeal Ref: APP/Q1445/D/16/3153322**  
**55 Woodland Drive, Hove, Brighton BN3 6DF**

- 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 & Mrs Chambers against the decision of Brighton & Hove City Council.
  - The application, Ref. BH2016/00549, dated 12 February 2016, was refused by notice dated 11 April 2016.
  - The development proposed is the remodelling of the existing dwelling including alterations and raising of the roof height to facilitate the creation of an additional storey. Erection of a porch and canopy and the creation of a garage at lower ground floor level to the front elevation. Alterations and enlargement of the existing rear patio; creation of access steps to either side of the dwelling; revised fenestration and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for the remodelling of the existing dwelling including alterations and raising of the roof height to facilitate the creation of an additional storey. Erection of a porch and canopy and the creation of a garage at lower ground floor level to the front elevation. Alterations and enlargement of the existing rear patio; creation of access steps to either side of the dwelling; revised fenestration and associated works at 55 Woodland Drive, Hove, Brighton in accordance with the terms of the application, Ref. BH2016/00549, dated 12 February 2016, 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 shall be carried out in accordance with the following approved plans: Drawing No. Series 14-011: Plan Nos. 1, 2, 3, 4, 20, 21, 22, 23, 24;
  - 3) The materials to be used in 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 proposal on the character and appearance of Woodland Drive.
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## Reasons

3. I saw on my visit that the appeal property occupies a corner position in Woodland drive at its junction with Deanway. The latter has a quite different appearance to Woodland Drive as the dwellings are three storey rather than two and set into a slope with an essentially open plan frontage lacking the mature vegetation of the front gardens in Woodland Drive.
4. However despite these differences the plots essentially follow the curve of the south eastward turn from Woodland Drive into Deanway without any break in the linear development pattern. As a result, the appeal dwelling is read with No. 24 Deanway as well as No. 57 Woodland Drive. I acknowledge that the continuity of vision is to some extent interrupted by the frontage hedge and trees, but nevertheless in views of No. 55 from the opposite side of the road the apex of the north western corner of the roof of No. 24 Deanway is both visible and noticeably higher. Furthermore much of the roof plane on the north side of that property is also visible in those views.
5. The appeal scheme proposes a 2.2m increase in ridge height to create three storey accommodation and this would be 0.7m higher than that of No. 57 and 1.7m lower than No. 24. The Council's view is that the outcome would be one of an unduly dominant and incongruous appearance at odds with the Woodland drive streetscene. However, because I consider that No. 55 reads with No. 24 as well as with No. 57, and also taking into account the break in the continuity of this side of Woodland Drive formed by the entrance to Deanway, I conclude that the altered dwelling would be an acceptable transition between the properties on either side.
6. The Council has also criticised the front canopy but there are a variety of frontage treatments in the area and in this particular context I consider that it would make little or no difference to the effect of the development. Overall, I find that the appeal scheme would not have a harmful effect on the character and appearance of Woodland Drive in conflict with Policy CP12 of the Brighton & Hove City Plan Part One 2016; saved Policy QD14 of the Brighton & Hove Local Plan 2005, and Section 7: 'Requiring Good Design' of the National Planning Policy Framework 2012. Because of this conclusion there would also clearly be no harm caused to the setting of the adjoining Woodland Drive Conservation Area.
7. I shall therefore allow the appeal. A condition requiring the development to be carried out in accordance with the approved plans will avoid uncertainty. A condition in respect of external materials will ensure that the extensions and alterations are in keeping with the host dwelling.

*Martin Andrews*

INSPECTOR

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## Appeal Decision

Site visit made on 16 September 2016

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 26 September 2016**

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### **Appeal Ref: APP/Q1445/D/16/3153835**

### **32 Hove Park Way, Hove, East Sussex BN3 6PW**

- 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 Nadine Kell against the decision of Brighton & Hove City Council.
  - The application, Ref. BH2016/00636, dated 15 February 2016, was refused by notice dated 18 May 2016.
  - The development proposed is a loft conversion and external alterations.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the proposal on the character and appearance of the street scene of Hove Park Way.

### **Reasons**

3. The Council's main concern with the proposal is that the alterations and extensions to the roof would break the 'rhythm of the rooflines and pattern of development' with a resultant negative impact on the continuity of the streetscape fronting Hove Park Way.
  4. However, in my view the use of the term 'rhythm' in this context suggests elements of repetition in a recognisable frequency or an ordered arrangement that are in themselves pleasing to the eye. I saw on my visit that the houses in this section of Hove Park Way are too individualistic in their design and external materials to warrant this description and I am minded to agree with the appellant on this point.
  5. That said, I consider that the Council is correct to point to a predominance of hipped roofs and a corresponding absence of side gables. This is especially noticeable on the eastern side of the road south of the appeal property where there are mostly fully hipped roofs. The effect of this is to enhance the spacious character of a road in which the substantial dwellings have fairly modest gaps between them.
  6. The property already draws the eye because of its more contemporary appearance, and whilst I recognise that the proposed side gables would be set back behind the front bays, the result of the appeal scheme would be a
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noticeably bulkier roof form that would not sit comfortably in its context. Furthermore, the proposed front dormer, although well proportioned and appropriately sited, would not be generally characteristic of the street scene and tend to accentuate the out of keeping roof scale and design.

7. In forming this view I have taken account of Government policy in paragraph 60 of the National Planning Policy Framework 2012 ('the Framework') to the effect that decisions should not comprise unsubstantiated requirements of conformity. I have also noted the reference to examples of hipped to gable relationships in the letter supporting the application.
8. On the first point I have come to an 'on balance' judgement for the reasons explained. On the second point I note that two of the examples are in Woodruff Avenue, which is a different street scene, whilst the example in Hove Park Way tends to reinforce my assessment of the discordant effect of this relationship.
9. I have taken account of all the other matters raised for the appellant but overall conclude that the appeal scheme would have an unacceptable effect on the character and appearance of the Hove Park Way street scene. This would be in conflict with saved Policy QD 14 of the Brighton and Hove Local Plan 2005 and Section 7: 'Requiring Good Design' of the Framework.
10. I have noted the objection from No. 32 and agree that there would be an adverse impact on the living conditions for the occupiers of this property as regards outlook. However, because the proposal fails on the main issue there is no need for me to assess whether on its own this would be sufficient to warrant refusal, albeit I have noted the Council's view that it would not.
11. For the reasons explained above the appeal is dismissed.

*Martin Andrews*

INSPECTOR



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## Appeal Decision

Site visit made on 16 September 2016

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 23 September 2016**

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**Appeal Ref: APP/Q1445/D/16/3154514**  
**9 Reynolds Road, Hove, Brighton BN3 5RJ**

- 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 M Randell against the decision of Brighton & Hove City Council.
  - The application, Ref. BH2016/0067, dated 18 February 2016, was refused by notice dated 30 June 2016.
  - The development proposed is described as '*internal wall removal and garage conversion to habitable room*'.
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### Decision

1. The appeal is allowed and planning permission is granted for the replacement of the existing detached garage with a single storey side and rear extension and associated alterations at 9 Reynolds Road, Hove, Brighton in accordance with the terms of the application, Ref. BH2016/0067, dated 18 February 2016, 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 shall be carried out in accordance with the following approved plans: OS based Block / Site Plan; Proposed ground floor plan (Drawing No. 201); Un-numbered plan showing proposed front and rear elevations; Proposed cross section CC (Drawing No. 206); Un-numbered plan showing proposed side (north) elevation; Proposed cross section AA (Drawing No. 204);
  - 3) The materials to be used in the construction of the walls and roof of the development hereby permitted shall match those used in the existing building.

### Preliminary Matter

2. The application description does not accurately reflect the form of the proposal and I therefore consider it necessary to use the Council's description in my formal Decision.

### Main Issue

3. The main issue is the effect of the proposal on the appearance of the host building and the street scene of Reynolds Road.
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## Reasons

4. In its appraisal of the appeal application the Council refers to guidance in its Supplementary Planning Document No. 12 'Design Guide for Extensions and Alterations' 2012 ('the SPD') that rear extensions should not normally extend beyond the main side walls of the host building and should normally be no deeper than half the depth of the main body of the original building.
5. On the latter point I note that the illustration in the SPD shows an extension across the full width of the existing house and I agree that an extension of the depth proposed at the appeal property would be inappropriate if it followed that example. However, the main body of the proposed extension would overlap the rear wall of the existing house by less than 2m of its 7m width and with the apex of its shallow pitched roof well below the eaves line of the existing building I consider that it would read comfortably as a subordinate and well designed addition.
6. On the first point in the SPD, existing views of the front of the property are of an essentially flat roofed garage of no design merit positioned slightly to the rear of the house and extending across to the boundary with No. 7. In fact much of this is hidden by the side gate / fence in its more forward position, but if this were to be removed at any time the extension would be seen from the road.
7. However, although the proposal would bring the existing built form both forward and across to link with the dwelling, because of its pitched tiled roof and front wall including a side door and window it would be far superior in appearance to the existing garage door. Furthermore, although the extension would have a depth of about 8m this is essentially the same as the existing garage and shed and a further 18m of garden boundary to No. 7 would remain.
8. Overall, I consider the form of the appeal scheme combined with the on-site characteristics is such as to outweigh the guidance of the SPD. I therefore conclude that the proposal would improve the appearance of the host building and the street scene of Reynolds Road. There would therefore be no conflict with Policy QD14 of the Brighton & Hove Local Plan (retained policies March 2016) or Section 7: 'Requiring Good Design' of the National Planning Policy Framework 2012.
9. I shall therefore allow the appeal. A condition requiring that the development is carried out in accordance with the approved plans is good practice and allows certainty. A condition requiring matching external materials will safeguard the appearance of the existing dwelling.

*Martin Andrews*

INSPECTOR





## Appeal Decision

Site visit made on 29 July 2016

**by Timothy C King (BA Hons) MRTPI**

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

**Decision date: 12 September 2016**

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### **Appeal Ref: APP/Q1445/D/16/3149218**

### **212 Mile Oak Road, Portslade, Brighton, BN41 2PL**

- 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 Lucy Walsh against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/04021, dated 6 November 2015, was refused by notice dated 16 February 2016.
  - The development proposed is '*Demolition of existing outbuildings and erection of an ancillary annexe.*'
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matter**

2. On 24<sup>th</sup> March 2016 the Council adopted its 'City Plan Part One' (CPPO), some of the policies from which have superseded certain policies within the Brighton and Hove Local Plan (LP). In relation to this appeal CPPO Policy CP12 has superseded LP Policies QD1 and QD2. This, however, has not affected my conclusions as the essence of the new broad policy is clear in that new development should be to a high standard of design giving a strong sense of place.

### **Main Issues**

3. The main issues in this appeal are 1) the effect of the proposal on the character and appearance of the surrounding area; and 2) the effect on the living conditions of neighbouring occupiers.

### **Reasons**

#### *Character and appearance*

4. The appeal property comprises of a two-storey, semi-detached dwelling with a long, narrow rear garden to a depth of some 35m which slopes away significantly from the rear of the house. At the bottom of the garden, in the area where the proposed annexe would be sited, there are currently two garages in an apparent poor state of repair. Some vegetative screening is present on all three common boundaries at this point, particularly against No 214 to the north and also the land beyond the curtilage's rear.
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5. The proposal would involve the erection of a single-storey outbuilding, measuring some 6.6 x 6.2m, with a recess to allow for a balcony feature. It would comprise a residential unit, with self-contained facilities including a lounge/kitchen, a bedroom and a toilet, although I note that there is no bathroom labelled. The pitched-roof building would measure some 2.6m to eaves level, with a ridge height of some 3.5m. Clad in fire retardant render it would be finished with brick quoins at the corners.
6. As a replacement for the two ancillary buildings that currently occupy the rear section of the garden the proposed building would represent something of a visual improvement with the feel of a summer-house. However, I have concerns about its size - whereby its footprint would not be of a dissimilar area to that of the main dwelling - along with its proximity to the nearby boundaries, but also the annexe's remoteness in terms of distance from the main dwelling's rear wall. Relating to these points I have had regard to the Council's Supplementary Planning Guidance 'Design Guide for Extensions and Alterations' (SPD12) which indicates that detached granny annexes will only be acceptable where the scale and appearance of the building is modest in proportion to the site and a clear dependency is retained at all times with the main building. I note the appellant intends that her elderly mother would live in the annexe, but I also understand that she has some health difficulties and, in the circumstances, the separation distance could perhaps prove problematic, especially if no bathroom/shower facilities are planned.
7. Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 allows, in principle, for outbuildings to be erected in residential curtilages, subject to certain provisos. One such condition is that should the proposed building be within 2m of any boundary then no part of that building can exceed 2.5m in height. In this particular instance the maximum proposed height would be approximately 3.5m and this, given the annexe's significant width, would compound the perception of size and scale. Further, at my site visit, although the substantial hedgerow along the divide with No 214 precluded me from viewing beyond the common boundary I was able to see across the gardens progressively southwards and did not witness any such outbuildings in the gardens of the dwellings to the south of the appeal site. In the circumstances, I consider that the annexe building proposed would appeal as something of an anomaly in its contextual setting and, notwithstanding any fallback position by way of householder permitted development entitlement, the proposed building goes considerably beyond the parameters of that which might be erected without requiring the benefit of planning permission.
8. I conclude that the proposal would be harmful to the character and appearance of the surrounding area and would conflict with the aims of the most relevant policy on this issue, LP Policy QD14, which require, amongst other things, for a satisfactory relationship with the main house whilst taking into account local character.

*Living conditions*

9. Although, due to the effective vegetative screening, the building's impact would be lessened, I still consider that it would likely have an effect on the occupiers of No 210 when using their garden, due to the limited separation distance and

the more openness of the common boundary. To reinforce my view, a two-pane width window lighting the lounge is proposed in the building's flank wall which would directly look over the rear garden of No 210 and beyond. Also, given its closeness to the side boundaries and the proposed front balcony area, upon which persons may like to sit with the lounge's French windows open, I have concerns about possible noise and disturbance being occasioned to neighbouring occupiers from television, radio and music being played. This would be extremely difficult to control and there was no suggestion by either main party as to whether any suitable planning condition could be imposed to temper this possibility.

10. Although the Council comments on the proposal giving rise to an associated intensity of movements I do not consider that the expected level of interaction between the main house and its annexe would give rise to anything remarkably beyond that which would be consistent with a normal level of garden usage. Indeed, I consider that extensions or outbuildings, if used for their intended 'granny annexe' purpose, can satisfactorily perform a function ancillary to the main dwelling. However, the Council also raises the issue of light pollution and the appellant attempts to counter this by mentioning that the sports pitches to the rear are used in the evenings by way of floodlighting. This might be the case, but it does not alter the fact that the building's main aspect would face back up the garden towards the main house, giving rise to the potential for electric light to overspill into No 214's garden.
11. On this main issue I conclude that the proposal, in the absence of any mitigation measures, would potentially be harmful to the living conditions of neighbouring occupiers and would materially conflict with the aims and requirements of LP Policy QD27.

*Other matters*

12. The appellant has provided me with three separate appeal decision letters relating to, on the face of it, similar developments to that of the current appeal proposal. I have read and considered these but am unable to draw direct and compelling parallels to support the appellant's case. It would appear, in the Croydon case that, unlike the current appeal, the outbuilding could be viewed in accordance with the host dwelling whilst the Inspector indicates that there would be a reasonable separation distance to neighbouring properties, an unlikelihood of noise and disturbance nuisance arising, whilst overlooking would not be an issue.
13. In the Cirencester case, the outbuilding was termed a stable service complex, and was set in the extensive grounds of a large house in a rural location outside development boundaries. The Stoke-on-Trent case was also set in a rural location, but this outbuilding was positioned close to the main dwelling and the amenities of neighbouring occupiers was not seen as an issue. In short, none of the three cases brought to my attention outweigh the harm I have identified would result from the current proposal.
14. Finally, I have had regard to the appellant's particular circumstances and her considered need for additional living accommodation. This appeal turned on what I concluded to be the likely harm arising from the proposed building

shown on the plans before me as opposed to the principle of an annexe development per se. It remains open to the appellant to explore other options.

**Conclusion**

15. I have found harm on both main issues, which is compelling. For the above reasons, and having taken into account all matters raised, the appeal does not succeed.

*Timothy C King*

INSPECTOR