



**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	8 February 2017
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 3BQ
Members:	<p>Councillors: Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Morris, Moonan and Russell-Moyle</p> <p>Co-opted Members: Jim Gowans (Conservation Advisory Group)</p>
Contact:	<p>Cliona May Democratic Services Officer 01273 29-1065/29-1354 planning.committee@brighton-hove.gov.uk</p>



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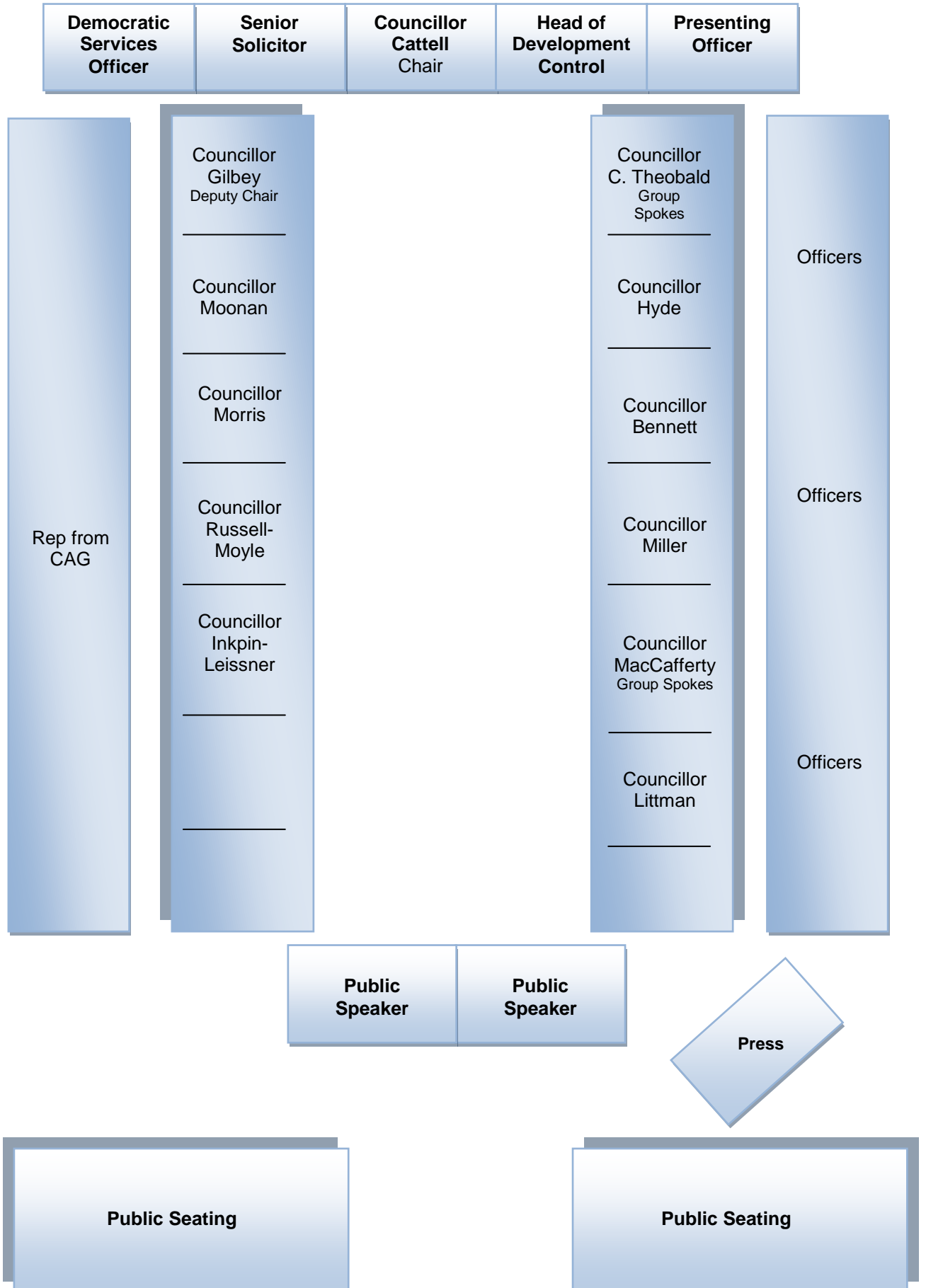
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Democratic Services: Planning Committee



AGENDA

103 PROCEDURAL BUSINESS

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

(b) Declarations of Interest or Lobbying

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

In each case, you need to declare

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

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

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

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

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

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

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

PLANNING COMMITTEE

104 MINUTES OF MEETING: 14 DECEMBER 2016 1 - 34

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

105 MINUTES OF THE PREVIOUS MEETING

Minutes of the meeting held on 11 January 2017 (copy to follow).

106 CHAIR'S COMMUNICATIONS

107 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 12 noon on 1 February 2017.

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

109 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

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

MAJOR APPLICATIONS

A BH2016/05810 - Genome Centre & Land Adjoining To East Within The Science Car Park, Science Park Road, University Of Sussex, Brighton - Full Planning 35 - 66

Refurbishment of the existing Genome Centre building and erection of a new Life Sciences building (D1) (14,910 sqm) over four floors plus basement with associated access, servicing and landscaping.

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Hollingdean & Stanmer

MINOR APPLICATIONS

B BH2016/05563 - Tyson Place and St Johns Mount, Brighton - Full Planning 67 - 78

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

RECOMMENDATION – GRANT

Ward Affected: Queen's Park

C BH2016/05687 - 23A Third Avenue, Hove - Full Planning 79 - 92

Conversion of existing garage into (B1) office space with

PLANNING COMMITTEE

erection of a single storey rear extension, front extension and associated alterations.

RECOMMENDATION – GRANT

Ward Affected: Central Hove

D BH2016/06433 - 16 Clifton Terrace, Brighton - Householder Planning Consent 93 - 102

Demolition of existing rear conservatory and erection of two storey rear extension, insertion of windows to front elevation, landscaping and other associated works.

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Regency

E BH2016/06434 - 16 Clifton Terrace, Brighton - Listed Building Consent 103 - 114

Listed Building Consent for demolition of existing rear conservatory and erection of two storey rear extension, insertion of windows to front elevation, internal alterations to layout, landscaping and other associated works.

RECOMMENDATION – MINDED TO GRANT

Ward Affected: Regency

110 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

111 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 115 - 116

(copy attached).

112 LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS OR IN IMPLEMENTATION OF A PREVIOUS COMMITTEE DECISION (INC. TREES MATTERS) 117 - 122

(copy attached).

113 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 123 - 130

(copy attached).

114 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 131 - 134

(copy attached).

(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>

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

Date of Publication - Tuesday, 31 January 2017

BRIGHTON & HOVE CITY COUNCIL**PLANNING COMMITTEE****1.00pm 14 DECEMBER 2016****COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 3BQ****MINUTES**

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

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

Officers in attendance: Nicola Hurley, Planning Manager, Applications; Sarah Collins, Principal Planning Officer; Kate Brocklebank; Principal Planning Officer; Maria Seale, Principal Planning Officer; Steven Shaw, Development and Transport Assessment Manager; Helen Gregory, Principal Planning Officer; Sandra Rogers, Principal Planning Officer; Sam Smith, Lead City Regeneration Programme Manager; Emma Kumar, Empty Property Officer; Sarah Potter, Operational Manager, Housing Adaptations, Richard Bradley, Assistant Director City Environmental Management; Hilary Woodward, Senior Solicitor and Penny Jennings, Democratic Services Officer

PART ONE**76 PROCEDURAL BUSINESS****76a Declarations of substitutes**

76.1 Councillor Yates was in attendance in substitution for Councillor Inkpin-Leissner.

76b Declarations of interests

76.2 Councillor Yates declared a personal and prejudicial interest in application C, BH2016/02756, 133 Kingsway (Former Texaco Garage) & 22 Victoria Terrace, Hove. He had been part of Co-Operative Team which had agreed on disposal of the site and relating to the Co-operative store on site he confirmed that he would withdraw from the meeting during consideration of the application and would take no part in its discussion or the decision making process. Councillor Yates also declared a prejudicial interest in applications F, BH2016/02229, 34 Walmer Crescent, Brighton and H, BH2016/02810, 57 Hornby Road, Brighton by virtue of the fact that he had submitted letters of objection in respect of both applications in his capacity as a Local Ward Councillor. He confirmed that he would withdraw from the meeting during consideration of the application and would take no part in their discussion or the decision making process.

- 76.3 Councillor Russell-Moyle also declared an interest application F, BH2016/02229, 34 Walmer Crescent, Brighton. He had sat on the Loan Recommendation Panel which had agreed to the purchase of 38 Walmer Crescent and considered that any decision relating to this application might impact on that; the Planning Officer confirmed that was not the case and that he did not appear to have a conflict of interest. However, in view of the close proximity of the two sites and being mindful of potential public perception of the matter Councillor Russell-Moyle stated that he would leave the meeting during its consideration and would take no part in the discussion or decision making thereon.
- 76.4 Councillor Mac Cafferty confirmed that he had attended a meeting of the South East Area Design Panel in respect of application B, BH2016/02499, Anston House (137-139) and land adjoining Preston Road Brighton with the Chair and Councillor C Theobald. Officers had also been in attendance and all three Members confirmed that they had not expressed a view, remained of a neutral mind and would therefore remain present during and take part in the discussion and decision making process. Councillor Littman confirmed that he also attended briefing sessions in respect of this application which was located in his ward. He had also not expressed an opinion, remained of a neutral mind and would remain present and take part in the discussion and voting thereon.
- 76.5 Councillor Moonan referred to application C, BH2016/02756, 133 Kingsway, (Former Texaco Garage), & 22 Victoria Terrace, Hove. The site was located in her ward and although she had attended a public consultation event in respect of it she had not predetermined the application, remained of a neutral mind and would remain present during and take part in the discussion and decision making thereon.
- 76.6 The Chair, Councillor Cattell, declared a prejudicial interest in application E, BH2016/01879, Diplock's Yard, Land to rear of 73 North Road, Brighton. The architect for the scheme was known to her and she had worked as a planning agent on the site in the recent past. The Chair explained that she would vacate the Chair which would be taken by the Deputy Chair, Councillor Gilbey, would leave the meeting during consideration of the application and would take no part in the discussion or voting thereon.
- 76.7 The Legal Adviser to the Committee, Hilary Wodward, declared an officer interest in application C, BH2016/02756, 133 Kingsway (Former Texaco Garage), & 22 Victoria Terrace, Hove. She was acquainted with one of those speaking as an objector to the proposed scheme, but had no direct input or involvement with the application, had not discussed the application with the individual concerned, nor would this have any bearing on any legal advice she might be required to give.
- 76c Exclusion of the press and public**
- 76.8 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.

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

76d Use of mobile phones and tablets

76.10 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'.

77 MINUTES OF THE MEETING HELD ON 12 OCTOBER

77.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 12 October 2016 as a correct record.

78 MINUTES OF THE PREVIOUS MEETING

78.1 In relation to Item B Councillor Mac Cafferty stated that he had sought clarification regarding the status of and need to record any of the on-site archaeology. It had been confirmed that the County Archaeologist had advised that he did not require a watching brief for the site. Councillor Mac Cafferty had also enquired regarding measures being undertaken to deal with graffiti, requesting that the minutes be amended to more accurately reflect his comments.

78.2 **RESOLVED** – That subject to the amendment set out above the Chair be authorised to sign the minutes of the meeting held on 9 November 2016 as a correct record.

79 CHAIR'S COMMUNICATIONS

79.1 The Chair, Councillor Cattell, wished to place on record her congratulations to Liz Hobden on her recent appointment as Head of Planning. Given Liz's deep and wide ranging knowledge and experience of planning The Chair was looking forward to meeting regularly and working with her in the New Year.

80 PUBLIC QUESTIONS

80.1 There were none.

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

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

Application:	Requested by:
BH2016/02377, 11 Coombe Vale, Saltdean	Councillor Hyde
BH2016/00448, 11 Radinden Drive, Hove	Councillor Bennett

82 121-123 DAVIDGOR ROAD, HOVE- REQUEST TO VARY THE HEADS OF TERMS OF SECTION 106 AGREEMENT IN CONNECTION WITH PLANNING PERMISSION BH2015/02917 FOR A MIXED USE BUILDING COMPRISING 47 RESIDENTIAL UNITS AND D1 COMMUNITY SPACE

- 82.1 The Committee considered a report of the Director, Economy, Environment and Culture requesting that the Committee consider a request to vary the terms of the Section 106 Agreement in respect of planning permission BH2015/02917, 121-123 Davigdor Road, Hove. It was noted that this variation request had been presented to Planning Committee on 9 November 2016 when consideration had been deferred in order to allow the Housing Team to comment on the request to vary the s1s06 and to answer questions raised by the Committee.
- 82.2 Following the original planning permission, granted in February 2015 on completion of a s106 agreement, the developer had advised that due in part to government rent caps for affordable rent accommodation and partly due to the nature of the development itself the possible Registered Social Landlord (RSL) had pulled out of their agreed deal to purchase the affordable units within the development and their under bidder had also withdrawn their interest. The developer had advised that in consequence they had received no viable offers for the affordable housing element of the scheme. Following discussions with the Housing Strategy team it had been agreed that an option whereby the affordable housing would be delivered by way of a commuted sum rather than on-site provision had been considered to represent the best way to meet the affordable housing brief and to secure affordable rent units.
- 82.3 Emma Kumar was in attendance representing the Housing Team. It was explained in response to Member questions that although the possibility of such units being purchased and managed by the Council could be pursued in the longer term, currently no mechanisms existed which enabled the Council to buy such units and to provide on-site provision if Registered Providers were unable to purchase them. The proposal to vary the existing Heads of Terms represented the most appropriate solution in the circumstances.
- 82.4 Councillor Russell-Moyle stated that the explanation given regarding the current position was enlightening and helpful. He was firmly of the view however that for the future means by which the Council could purchase such units should be pursued and that commuted sums should be set aside rather than placed into any general fund. The Chair, Councillor Cattell, noted what had been said explaining that although this matter fell outside the remit of the Planning Committee she was aware that it was being looked at by the Policy, Resources & Growth Committee. Councillor Russell-Moyle also asked and was advised of the schemes this money would be spent on.
- 82.5 Councillor C Theobald stated that she pleased that the application had been deferred in order for Members to receive the additional information requested. On the basis of the information provided she considered that the proposed variation to the existing Heads of Terms was acceptable. Whilst it was preferable for 40% on-site provision to be given, each application needed to be considered on its individual merits and in this instance she considered that a sufficiently compelling case had been made.

- 82.6 Councillor Littman stated that he was deeply concerned that notwithstanding the circumstances in this instance, accepting a significantly lower level of affordable units compromised the Council's policies. The rationale for this set out in the report did not relieve his concerns.
- 82.7 Councillor Moonan stated that whilst she was in agreement that the Council's policies should be upheld and that acceptance of a commuted sum should only be considered as an exception, it was appropriate in this instance.
- 82.8 A vote was taken and on a vote of 11 with 1 abstention variations to the Head of Terms as set out in the report and below were agreed.
- 82.9 **RESOLVED** – That the proposed variations to the Head of Terms be agreed to require the developer to provide a financial contribution of £1,218,000 to provide off-site affordable housing.

83 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS

MAJOR APPLICATIONS

A BH2016/05493- Land at Station Street/Blackman Street/Cheapside, Brighton - Full Planning

Erection of 7 storey office building (B1) plus basement with associated car and cycle parking and landscaping. New vehicular access off Blackman Street.

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

Officer Introduction

- (2) The Principal Planning Officer, Maria Seale, gave a presentation detailing the scheme by reference to plans, elevational drawings proposed block plans and photographs. It was explained that the site which was vacant was located to the East of Brighton Station and was bordered on three sides, on the corner of Station Street, Blackman Street and Cheapside, opposite the south end of Fleet Street. The character of the area was mixed commercial/residential and there were tall buildings to the south and west, a residential block to the north (Sharpthorne Court) and low rise commercial buildings to the east.
- (3) It was noted that the site plan circulated with the Committee papers was slightly inaccurate as it did not include part of the public highway next to Fleet Street which the proposed entrance canopy would project over. A corrected version had been circulated with the "Additional Representations List".
- (4) The delivery of modern office floor space was particularly welcomed in this location and, in line with the NPPF, considerable weight had been given to the significant economic benefits of the proposal. In view of all of the above, there was no objection to the proposed single use. The proposal was welcomed by both the council's City Regeneration and Planning Policy Teams, who had confirmed that the benefits of the proposal should be afforded significant weight and that there were strong planning benefits to an office only scheme on this site. The land east of Brighton Station had

been identified as a focus for tall buildings (over 18m/6+ storey) in SPGBH15 and the site had also been identified as suitable for tall buildings in SPD10 in principle; minded to grant approval was therefore recommended.

Questions for Officers

- (5) Councillor Miller enquired whether it would have been possible to apply the S 106 monies elsewhere in the vicinity. It was explained that the traffic arrangements had been assessed very carefully in this instance and that would not have been appropriate. Councillor Miller also raised the issue of one of the streets becoming a one way street.
- (6) Councillor Morris asked for clarification of the width of Blackman Street which he considered was a very narrow highway.
- (7) Councillor C Theobald inquired regarding any potential impact on buildings located opposite the site.

Debate and Decision Making Process

- (8) Councillor Mac Cafferty referred to paragraph 8.28 of the Officer report stating querying that the methodology in this instance. He stated he had concerns about the appearance of the brickwork proposed requesting that materials be agreed at the Chairs meeting and it was agreed that would be appropriate.
- (9) Councillor C Theobald stated that she supported the proposal which would provide good quality office space.
- (10) Councillor Miller concurred stating that in his view the case for office rather than a mixed use development, i.e., an exception had been made in this instance.
- (11) Councillor Morris supported the scheme which he considered had been well designed.
- (12) Councillor Littman stated that he considered the scheme was appropriate and of a good design, although he would have preferred it to be a mixed use development.
- (13) A vote was taken and on members voted unanimously that minded to grant planning approval be granted.

83.1 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 agreement and to the conditions and informatives also set out in the report and the amendments set out below:

Amend Condition 8 (i) to read: Details of the feature decorative ventilation grilles to basement car park facing Blackman Street which shall incorporate an artistic influence.

Condition 10 should read as part of condition 9.

B BH20116/02499- Anston House (137-139) and Land Adjoining, Preston Road, Brighton - Full Planning

Demolition of existing building and erection of a new building of varying heights up to 13 and 15 storeys to provide 229, residential units (C3), flexible commercial/café space (B1/A3) use at ground level, car parking at ground and basement level, cycle parking, storage lockers, two new vehicular accesses, landscaping and amenity areas, refuse stores and associated plant.

Officer Introduction

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Sarah Collins gave a presentation delineating the proposed scheme by reference to site plans, elevational drawings and photographs showing of the site and impressions of the completed scheme. Minor amendments were to the conditions were proposed as set out in the Additional Representations List. Additional representations received were also referred to. Details were shown in relation to the previously refused scheme and the current one.
- (3) The application site related to the existing Anston House building and vacant site adjacent to Anston House, 137-147 Preston Road. The plot was rectangular in shape measuring approximately 91m x 65m. The existing building Anston House, was 9 storeys in height to the road frontage and stepped down to 7 storeys to the rear. The property had been vacant for approximately 30 years and was in a poor state of repair. The site is owned by One Preston Park LLP, a joint venture between First Base Ltd and Hyde Housing Group.
- (4) The surrounding area comprised a mix of uses. The site was bounded by Preston Road to the north east with Preston Park beyond. To the south east of the site was Telecom House, a purpose built office block which stood at 10 storeys in height, beyond which was a traditional row of terraced residential properties. To the north west were predominantly office buildings set within generous plots varying between 6 - 10 storeys in height. To the south west were 3-4 storey residential terraced properties which fronted onto Dyke Road Drive. These properties were generally set at a higher level than the site by more than 5m, with the gardens sloping down to the boundary with the application site. Beyond these terraced properties was the main railway line leading into Brighton Station.
- (5) The proposed scheme had evolved over the course of the past year through pre-application consultation with planning officers and had been scrutinised by the South East Review Panel three times. The design had been revised significantly from the previous scheme. The amount of development to the rear of the site had been reduced and had been relocated towards the site frontage set across three towers. Anston House would be demolished and a mixed use development comprising commercial space on the ground floor with residential flats above set across three towers of 13, 14 and 15 storeys and within two 6 storey (read as 5 storeys at the back of the site) rearward projections and a 4 storey podium connecting the north and central towers. There would be two levels of parking at ground and basement level, accessed from a

new two-way access at the northern end of the frontage. There would also be a one-way access for drop offs and deliveries at the front of the site which would connect to the main access via which all vehicles could access the site. The commercial floorspace would cover 1,663sqm of which 250sqm would be dedicated to an A3 café use. The current application which had been significantly amended and which had been informed by an extensive pre-application presentation was recommended minded to grant subject to the Conditions and Informatives set out in the report and as amended.

Public Speakers

- (6) Ms Dadka and Mr Shaw spoke in objection to the scheme setting out their objections and those of neighbouring residents. Whilst recognising the desperate need for housing across the city, the scheme as put forward represented over development of the site and by virtue of its scale and bulk would set a damaging precedent, it would also be detrimental to the setting of Preston Park.
- (7) Councillor Allen spoke in his capacity as a Local Ward Councillor setting out his objections to the scheme. He considered that the proposed development was still too tall and overbearing especially in the context of Dyke Road Drive to the rear. The towers proposed were too high and would be more at home in Manhattan, New York than in the Preston Park area. The weight of public opinion was firmly against the scheme and that should be taken account of.
- (8) Mr Lipton spoke on behalf of the applicants in support of their application. The application before the Committee had undergone significant work in order make best use of the site whilst respecting neighbouring development and the setting of Preston Park which was opposite the site. The tower blocks had been provided across the site in order to break up the building line. In addition to providing much needed housing the proposed form of development would also provide 1,300 jobs and make a significant contribution to the local economy.

Questions for Officers

- (9) Councillor Russell- Moyle sought detailed information in relation to the viability of the scheme and the assessment made in relation to the affordable housing element. He was very concerned that it was important to ensure that the Council's commitment to 40% affordable housing was met and was pursued robustly, otherwise the policy became compromised. Councillor Russell-Moyle asked whether it was possible for the details of those considerations to be released to Members, referring a recent case in Southwark. It appeared in this instance that the profit ratio for the scheme would be 25% whereas the usual requirement was for 15%. The Legal Adviser to the Committee, Hilary Woodward, explained that there was a procedure to be followed in relation to the disclosure of information which was considered to be confidential. Whether or not such information should be disclosed depended on the relevant facts pertaining to the information in question.
- (10) Councillor Morris stated that it was important for Members to feel that they were in possession on sufficient information to feel assured that the affordable housing/viability issues had been fully assessed.

- (11) The Chair stated that she considered that in her view it would be appropriate for members to receive training on viability issues , however in this instance she considered that the assessment of the District Valuer should be accepted in determining the application.
- (12) Councillor Hyde sought clarification regarding the consultation process and whether residents and others had been consulted regarding the height of the towers on site, also regarding the proposed materials and finishes proposed; the red tiles proposed appeared to be bright red.
- (13) Councillor Miller also sought confirmation as to whether materials would be brought back to committee for approval, or at least for approval by the Chair, Deputy Chair and Opposition spokespersons.
- (12) Councillor Yates also enquired how the palette of materials of materials was selected; also the balance between housing and other uses. It was explained that it was a matter of balance and on balance the mix of uses recommended was considered acceptable.
- (14) Councillor Gilbey sought clarification of the access/egress arrangements for the site and this was illustrated by reference to the appropriate plans.
- (15) Mr Gowans, CAG requested to see plans indicating how the proposed towers sat across the site in order to ascertain what the coherent building line was.
- (16) Councillor Moonan sought clarification regarding the height of the buildings in the context of the neighbouring tall blocks. It was confirmed that the methodology for tall buildings was referred to in the report and the development did comply with policies.
- (17) Councillor C Theobald asked for confirmation of the number of on site parking spaces and arrangements to protect any on site trees remaining or to provide screening.

Debate and Decision Making Process

- (18) Councillor Littman stated that there was a desperate need for Anston House to be replaced, there was also a desperate need for more housing in the city, it was important however, that desperation should not determine the Committees actions. He hoped that he would live long enough to see a good replacement scheme for Anston House, but this was not it. In his view the three grounds on which the previous application had been refused had not been overcome and this application failed on exactly the same grounds as the previously refused scheme.
- (19) Councillor Hyde agreed considering that the Committee needed to determine the application as submitted. She considered the scheme was acceptable although the level of affordable housing was not 40% the scheme would provide much needed housing on a derelict site along with the mixed uses proposed.
- (20) Councillor Mac Cafferty welcomed the scheme but considered that the opportunity should have been taken to press for solar panels and sought clarification regarding the sustainable elements of the scheme and in relation to the cycle access arrangements.

- (21) Councillor Miller stated that any scheme approved for the site needed to be the “right” one. He liked the design and was mindful that the site had been empty for so long, although some elements of scheme were tall he considered it would be very difficult to address all of the concerns expressed. On balance he was able to support the scheme.
- (22) Councillor C Theobald stated that she would have preferred it had the development been lower but on balance considered it was acceptable.
- (23) Councillor Bennett concurred stating that she was disappointed that the scheme was so high but considered that it represented an improvement on what was there.
- (24) Councillor Mac Cafferty stated that he supported the scheme which would effect significant improvements and represented a bold response to the challenges of the site.
- (25) Councillor Russell-Moyle considered that it was very important to push for more affordable housing on sites across the city, however although he considered that this represented a visionary scheme he was unable to say whether the percentage of affordable housing was realistic.
- (26) Councillor Moonan stated that although she shared the concerns expressed on balance she supported the officer recommendation.
- (27) Councillor Gilbey stated that whilst torn on the issue ultimately she shared the concerns expressed by objectors in relation to the height and overbearing nature of the proposals and would therefore be voting against the application.
- (28) The Chair, Councillor Cattell, stated that having heard all that had been said on balance she supported the proposed scheme and considered that it would be very difficult to sustain reasons for refusal.
- (29) A vote was taken and on a vote of 9 to 3 minded to grant planning approval was given.

83.2 **RESOLVED** – That the committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 agreement and to the Conditions and Informatives also set out in the report and the amendments and corrections set out below.

Amend the following conditions:

7 i): ‘Demolition aside” to be inserted at the beginning.

8: ‘Demolition aside’ to be inserted at the beginning. Amend 2nd sentence: ‘The development shall subsequently be carried out’

12: Re-word to read: No development above basement car park level of any part of the development hereby permitted shall take place until 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. The scheme 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 'street permit free'.

24: Re-word to read: Within 6 months of first occupation of the development hereby approved, a Post Completion Preliminary Assessment confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent', shall be submitted to, and approved in writing by, the Local Planning Authority.

41: Re-word to read: A minimum 5% of the residential units (12 units) shall be wheelchair accessible (in compliance with Building Regulations Optional Requirement M4(3)(2b) or wheelchair adaptable (in compliance with part M4(3)2a. 3 of these units shall be provided for the affordable rented units and these shall be wheelchair accessible. The wheelchair accessible/adaptable dwellings shall be completed prior to first occupation and shall be retained as such thereafter. All other 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.

43 and 44: Delete – not required as condition 10e requires these details.

To insert into end of paragraph 8.65 in the report:

'The applicant reassessed the daylight levels and found that the number of rooms that would either meet the BRE guidance or have a negligible impact would increase from 557 to 571, which is considered to be a significant improvement.'

Correction to paragraph 8.13 of the report:

'local heritage assets' should be replaced with 'nearby designated heritage assets' and 'principle of' should be replaced with 'development substantially'.

C BH2016/02756-133 Kingsway, (Former Texaco Garage), & 22 Victoria Terrace, Hove - Full Planning

Proposed demolition of the former Texaco garage and shop and demolition of outbuilding to the rear of the former Alibi public house. Proposed erection of 55 No. residential apartments and 375 sq.m of retail floorspace (A1 Use Class) in a new building of between 2 and 9 storeys together with associated parking and landscaping; a change of use of the ground floor of the former Alibi public house to an A1 café and conversion of the first, second and third floors to provide 3No dwellings.

Officer Introduction

- (1) It was noted that this application had been the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Kate Brocklebank introduced the application by reference to site plans, elevational drawings, floor plans and photographs of the site in the context of the neighbouring street scene and the boundaries of the neighbouring

conservation area. The site itself fell partly within the Cliftonville Conservation Area. Reference was made to the amended conditions set out in the Additional Representations List. It was noted that 12 additional letters of objection had been received.

- (3) The application site was located on the corner of Kingsway and St Aubyns South adjacent to the King Alfred Leisure Centre on an island of development bordered to the east by Sussex Row and to the south by King's Esplanade. The site was comprised of two portions, both were currently vacant, the main site to the west was until 2015 occupied by a Texaco garage and shop whilst the eastern portion was occupied by the locally listed former Alibi public house, at 22 Victoria Terrace. The character of the surrounding area was a mix of residential and various commercial uses including cafes, restaurants and retail. The surrounding form was a mix of terraced and purpose built flatted development, the scale of which was varied with the adjacent Victoria Terrace representing the smallest scale at only 2 storeys in height, whilst the nearby Bath Court represented the tallest development in the island at 7 storeys.
- (4) The main considerations in determining the application related to the principle of development, design and impacts on heritage assets, along with impacts on amenity, transport and sustainability. Whilst reference had been made to a restrictive covenant on the site this was a private legal issue and was not a material planning consideration. Issues relating to the potential impact on amenity, daylighting, diffused daylighting and overlooking were addressed in the report. It was considered that the amendment to remove a storey from the new build to the rear of the Alibi rear projection would improve impacts on daylighting to the worse effected property at 21 Victoria Terrace and would also result in a more open aspect and would maintain the same separation distance at the rear.
- (5) Overall the development had sought to maximise the use of the site and represented a scale which challenged the traditional scale and form of the surrounding locality and in order to address the scale of adjacent development would result in the building stepping up considerably from east to west. The scheme was considered to be of an acceptable form, scale and design and with conditions to control the detailed elements of the design would have a positive impact on the character of the area particularly given the inclusion of improvements to the former Alibi and minded to grant approval was therefore recommended.

Public Speakers

- (6) Ms Paynter and Dr Cory accompanied by Ms Bidwell spoke on behalf of local objectors setting out their objections to the scheme. In their view the scheme was full of compliance failures and sought to cram too much onto a constrained site. There would be severe overshadowing and loss of light from a building which would be too tall, the design was out of character with the surrounding street scene. There would also be a detrimental and potentially dangerous impact in consequence on the access arrangements proposed which would be exacerbated by the additional number of vehicular movements which would be generated, particularly in relation to the St Aubyns South vehicle access (raised footway/vehicle crossover).

- (7) Councillor Cobb spoke on behalf of Councillor Wealls setting out his objections to the scheme. Councillor Cobb referred to Councillor Wealls letter which was attached to the officer report which set out his concerns and objections and those of neighbouring residents in detail. Whilst proposals to develop this unsightly and derelict site were welcomed, the specific aspects of the proposal itself gave cause for concern. The development was too tall, there was insufficient parking; it would have a detrimental impact on the conservation area, access to light and amenity of adjacent buildings. Vehicle movements and delivery arrangements to the retail premises gave rise to concern. In addition to the arrangements for vehicles exiting from St Aubyns South onto the Kingsway there were additional concerns relating to vehicle volume and dangerous driving in Sussex Road. Vehicles already mounted the pavement there in order to pass parked vehicles on the eastern side of the road. It was critical that any development of such scale did not increase pressure on this very narrow road. The dearth of affordable housing was also considered unacceptable on a site which had such high massing and density.
- (8) Mr James spoke on behalf of the applicants in support of the scheme. He explained that the application had been subject to an extensive pre-application process and consultation and had sought to address objections and concerns whilst delivering a viable scheme. The scheme was in accordance with the Council's policies and would deliver much needed housing and a retail element to a currently derelict site.

Questions for Officers

- (9) Councillor Russell-Moyle referred to the proposed access/egress arrangements and sought confirmation of the considerations which had been taken. The Development and Transport Assessment Manager, Steven Shaw, ran through the access arrangements for the site including those for the proposed Co-op store. It was envisaged that further potential crossing arrangements could be effected to the Kingsway in future in connection with the King Alfred Leisure Centre. The arrangements proposed were considered adequate including the arrangements in relation to St Aubyns Road South. All final details would need to be submitted and approved in writing prior to occupation of the development.
- (10) Councillor Russell-Moyle also enquired regarding the reduced level of S106 contributions and it was explained that the levels for this had been arrived at following a detailed consultation process. The viability of the scheme had also been assessed by the District Valuer. Councillor Russell-Moyle stated that information regarding the formula used by the District Valuer and on viability issues generally as part of Member training would be beneficial.
- (11) Councillor Moonan sought clarification regarding the assessment which had been made regarding the tall buildings policy and whether or not the site was located within the tall buildings corridor. Confirmation was also requested regarding the consultation process and arrangements made to ensure advertisement of the scheme, as a number of local residents had indicated that they had been unaware of it.
- (12) Councillor Miller asked whether it was possible to seek to ensure (by condition) that Co-op customers could use only that area set aside for that use and whether it would be possible to ensure that other areas of the car park could not be sold-off in future.

The Principal Planning Officer explained that a condition could be added. Once the planning conditions had been discharged any future changes including those in respect of parking could not be changed without an application being made to vary them.

- (13) Councillor Hyde referred to the fact that a number of Members were Members of the Labour and Co-operative party and asked whether the Co-op made funding donations either centrally or locally. Councillor Russell-Moyle confirmed that was not the case and the Legal Adviser to the Committee confirmed that this issue had been raised in the past and it had been established that there was no conflict of interest.
- (14) Councillor Hyde also sought confirmation of the distance between the development and St Aubyns and sought clarification whether the balconies would be obscure glazed and it was confirmed that they would.
- (15) Councillor C Theobald sought confirmation of the hours of operation of the Co-op store and details of the times during which deliveries would be permitted to take place.

Debate and Decision Making Process

- (16) Councillor C Theobald stated that whilst welcoming the additional housing the site would provide she considered that the development would be too high, would result in overlooking and loss of light to neighbouring developments, was of a poor design and provided insufficient parking.
- (17) Councillor Miller stated that whilst he had some concerns about parking and road safety he considered that these could largely be addressed by condition.
- (18) Councillor Hyde stated that she would have preferred to see more parking on site but noted and accepted the rationale of the District Valuer in relation to viability. Whilst she did not like the design of the corner block she considered that overall the materials proposed appeared to be of a very high quality.
- (19) Councillor Russell-Moyle stated that whilst he liked the design he was unhappy at the lack of affordable housing provision. He was concerned that the existing policy on affordable housing was often too lenient. If developers were permitted to provide less than 40% this served to weaken the policy. The Chair stated that the scheme had been brought forward following detailed consideration. In the event of refusal the views expressed by the District Valuer would be taken account of by the Planning Inspectorate.
- (20) Councillor Littman stated that in his view whilst welcoming the housing proposed, he considered the scheme was too tall, would result in overlooking and loss of daylight. Cumulatively there were a lot of negatives and he did not feel able to support the scheme. Councillor Morris stated that he shared Councillor Littman's concerns but liked the design so was torn.
- (21) Councillor Moonan stated that she considered there was a lot to be welcome but considered the corner block would be too tall.
- (22) Councillor Gilbey stated that she considered the application to be acceptable.

- (23) The Chair, Councillor Cattell stated that in her view the development was of a good design, would provide much needed housing and would result in good use of a brownfield site which was currently derelict.
- (24) A vote was taken and of the 11 Members present when the vote was taken, on a vote of 5 to 4 with 2 abstentions members voted that **MINDED TO GRANT** planning approval be given to include an additional condition to ensure that parking for Coop customers was only permitted in the area identified for the store, the final wording of which was to be agreed in consultation with the Chair.

83.3 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 agreement and to the Conditions and Informatives in the report and the amendments set out below:

Additional Condition: Parking for Co-op customers only in the area identified for the store.

Amend the following conditions:

8: Amend timing to ‘ground floor slab level’ rather than pre-commencement.

9: Correct numbering subsection ‘5’ should be ‘1’.

21: Reason updated to read:

Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development and to comply with policy SU2 of the Brighton & Hove Local Plan and to comply with policy SA1 of the Brighton & Hove City Plan Part One.

22: Should specifically refer to the *new build* retail unit only.

29: Reference to policy TR7 be removed from the reason for the condition.

31: Restriction on vehicles servicing the development to a maximum of 12m in length rather than 8.5m.

42: Delete.

Additional condition: Requiring Construction Environmental Management Plan

Amend S106 Heads of Terms: Delete requirement for Construction Environmental Management Plan

Note: Having declared a personal and prejudicial interest in the above application, Councillor Yates left the meeting and was not present during any aspect of its consideration or the voting thereon.

D BH2016/05369 - Hollingdean Waste Transfer Station, Hollingdean Lane, Brighton -Variation of Condition

Application for temporary variation of conditions 3, 4 & 5 of BH2013/02219 (original application BH2006/00900) to allow the operation of the Waste Transfer Station (WTS) and the Materials Recycling Facility (MRF) and the importation and export of waste on the 26th December 2016.

Officer Introduction

- (1) The Principal Planning Officer, Maria Seale, gave a presentation detailing the application by reference to plans, drawings and photographs of the site. It was explained that variation of the conditions would allow for operational changes to the site to enable the City Council as Waste Authority to have greater flexibility in terms of collecting waste to allow operations to take place on 26 December 2016.
- (2) It was considered that the proposed temporary variation of conditions would not result in significant impact on the amenity of adjacent properties or highways safety and congestion. The variation would also allow the site to continue operating in an efficient and effective manner in accordance with local plan policies in respect of a city wide approach to waste management. Members were requested to note that proposed amended conditions were set out in the circulated Additional Representations List and that these now represented the substantive recommendations.

Questions for Officers

- (3) Councillor Mac Cafferty enquired why permission was being requested this year. He was anxious to avoid nuisance to neighbouring residents and wanted to seek to ensure that if permission was given it was conditioned to ensure that this did not become a permanent arrangement. It was confirmed that the request was being made to minimise disruption to waste collection services due to the fact that the Christmas bank holiday fell over two weekends. Any future requests would need to come back to the Committee.

Debate and Decision Making

- (4) Councillor C Theobald proposed that the hours during which operations could take place be limited to 9 00am and 5.00pm. This was seconded by Councillor Littman and Members then voted on this as one of the substantive report recommendations.
- (5) A vote was taken and members voted unanimously that a temporary variation of conditions 3, 4 and 5 be agreed as set out in the report to include a condition that the hours during which operations could take place be limited to between 9.00am and 5.00pm.

83.4 **RESOLVED** – 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 Conditions and Informatives set out in the report, Additional Representations List as amended or with the additional condition below.

Additional Condition: To ensure that operating times be restricted to 9am – 5.00pm or the conditions to be amended to restrict operating times.

1. The materials recovery facility and waste transfer station hereby permitted shall not exceed a combined recyclable materials and waste throughput capacity of more than 160,000 tonnes per annum and annual monitoring evidence shall be submitted to demonstrate this, and to demonstrate that the associated vehicular trips do not exceed the total stated in the Transport Assessment as approved by the Local Planning Authority under Planning reference BH2006/00900 dated 19/06/2006.

Reason: The Environmental Statement submitted with the application is based on this throughput and the Local Planning Authority would wish to maintain control over future operation of the site in the interests of amenity and traffic management, to comply with policies QD27 of the Brighton & Hove Local Plan, CP9 of the Brighton & Hove City Plan Part One and WMP18, WMP25 and WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

2 Upon first arrival at the waste transfer station building, residual waste stored within the building shall not be stored for a period of longer than 72 hours unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity, to comply with policy QD27 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

3. The processing of recyclable materials within the Materials Recovery Facility building shall only occur between the hours of 0700 to 2200 Monday to Sunday including Bank Holidays. No operations shall take place on Christmas or Boxing Day except 26.12.16 unless first agreed in writing by the Local Planning Authority. Internal start-up and shut-down operations within the Materials Recovery Facility building shall not extend beyond 30 minutes either side of these hours

Reason: To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

4. Operations or activities authorised by the permission and associated with the operation of the waste transfer station shall only carried out between the hours of 0700 – 2200 Monday to Sunday including Bank Holidays. The only operations that will take place on Christmas or Boxing Day except 26.12.16 are the tipping of waste from street cleansing and litter collection. No other operations shall take place on Christmas Day or except Boxing Day 26.12.16 unless first agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

5. Unless first agreed by the Local Planning Authority all HGV movements for the importation or export of waste and recyclable materials shall only be carried out between the following hours: 0630 – 2200 Monday to Sunday including Bank Holidays

The following further restrictions shall apply:

- (i) Street cleansing waste and litter will only be tipped between the hours of 2200 and 0630 where required to meet operational needs for major events and festivals, and only with prior written consent from the Local Planning Authority.
- (ii) Between the hours of 1900 – 2200 Monday to Sunday only a maximum of 8 HGVs per day shall visit the site
- (iii) There shall be no HGV movements for the importation or export of waste and recyclable materials on Christmas and Boxing Day except 26.12.15 (with the exception of waste from street cleansing and litter collection).

Reason: To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WMP18, WMP25 and WMP26 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

6. Noise associated with fixed plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1m from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5 dB(A) below the existing L_{A90} background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997.

Reason: To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

7. No vehicles or machinery required for the operation of facilities in control of the operator of the development shall be used on site unless fitted with silencers maintained in accordance with the manufacturers' recommendations and specification.

Reason: To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU10 of the Brighton & Hove Local Plan and WLP1 and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

8. All vehicle access doors to the Waste Transfer Station and Materials Recovery Facility shall remain closed except to enable the ingress and egress of vehicles.

Reason: To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

9 No materials shall be burnt on site.

Reason: To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU9 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

10. All loading, unloading, sorting and bulking activities shall occur within the Waste Transfer Station and Materials Recovery Facility buildings and no waste

material shall be stored or tipped on to the ground for storage purposes, sorting or loading onto skips outside the buildings.

Reason: To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, including visual amenity, to comply with policies QD27, SU9, SU10 of the Brighton & Hove Local Plan, CP12 of the Brighton & Hove City Plan Part One and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

11. Unless otherwise agreed in writing, the scheme for the suppression of dust and odour from the operations shall be carried out in accordance with the details approved by Local Planning Authority by letter dated 18 February 2008 and retained as such thereafter.

Reason: To protect the amenity of the occupiers of nearby residential properties and the amenity of the locality in general, to comply with policies QD27 and SU9 of the Brighton & Hove Local Plan and WMP25 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

12. Not used.

13. No trees, shrubs or hedges within the site, in accordance with the details as approved by the Local Planning Authority under Application reference BH2006/00900 dated 19 June 2006, which are shown as being retained, shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure there is satisfactory landscaping to serve the development in the interests of visual amenity and to enhance ecology, to comply with policies QD15 and QD16 of the Brighton & Hove Local Plan, CP10 and CP12 of the Brighton & Hove City Plan Part One and WMP23a, WMP25 and WMP27 of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

14. Not used.

15. Not used.

16. The public art display shall be permanently retained as such thereafter.

Reason: To give visual interest and soften the appearance of the development and to partly meet the demand for public art within the scheme, in accordance with policy QD5 of the Brighton & Hove Local Plan, CP5, CP12 and CP13 of the Brighton & Hove City Plan Part One and WLP35, WLP39 and WLP40 of the East Sussex and Brighton & Hove Waste Local Plan.

17. All areas where waste is stored, handled or transferred shall be underlain by impervious hard standing with dedicated drainage to a foul sewer or sealed tank.

Reason: To prevent pollution of the water environment to comply with policy SU3 of the Brighton & Hove Local Plan and WMP23a, WMP25 and WMP28b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

18. Prior to being discharged into any watercourse, surface water sewer or soakaway all surface water drainage shall be passed through an oil bypass interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: To prevent pollution of the water environment and reduce flood risk to comply with policy SU3 of the Brighton & Hove Local Plan and WMP23a, WMP25 and WMP28b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

19. No soakaway shall be constructed in contaminated ground.

Reason: To prevent pollution of groundwater to comply with policy SU3 of the Brighton & Hove Local Plan and WMP23a, WMP25 and WMP28b of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

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

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

Plan Type	Reference	Version	Date Received
Site Location Plan	LP1		20/03/2006
Red Line Plan	RL1		20/03/2006
Site Plan	51115_Holl_MRFWTS (01)	3	20/03/2006
MRF Elevations & Sections	051115_Holl_MRFWTS (02-01)	0	20/03/2006
WTS Elevations & Sections	1115_Holl_MRFWTS (02-02)	0	20/03/2006
Office/Education Centre Building Floor plans Facades	051115_Hol_Offices (03)	4	02/06/2006
Gatehouse	051115_Holl_MRFWTS (04)	3	20/03/2006
Construction Typical Details	051115_Details(05)	3	20/03/2006
MRF Drive Through	051115_MRF (06)	3	20/03/2006
WTS HGV Circulation Path	051122_Holl_Circulation (07)	0	20/03/2006
MRF HGV Circulation Path	051122_Holl_Circulation (08)	0	20/03/2006
Sections through western embankment	51123_elev_land (11)	0	20/03/2006
Sections through Hollingdean lane cottage	051126_Holl_cottage (12)	0	20/03/2006
Schematic Drainage Layout	11650_ENV_001 Rev C		20/03/2006

Tree Removal Plan	157812M/LA/SK/003 Rev B		20/03/2006
Planting Plan	157812M/LA/SK/004 Rev C		20/03/2006
ACM Dragonfly Section detail	LD1		19/10/2011
Red Line Plan	RL1		05/07/2013

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 to grant Planning Permission has been taken:

(i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(full list see section 7 of the report); and

(ii) for the following reasons:-

The proposed variation of the conditions will not result in a significant impact on the amenity of adjacent properties or highways safety and congestion. The variation will also allow the site to continue operating in an efficient and effective manner in accordance with local plan policies in respect of a city wide approach to waste management.

MINOR APPLICATIONS

E BH2016/01879-73 North Road, Brighton (Land to Rear of 73 North Road - Full Planning

Erection of part single, part two storey building to provide 8no office units (B1) (amended plans).

Councillor Gilbey, Deputy Chair, in the Chair.

(1) It was noted that this application had been deferred at the meeting of the Committee held on 9 November in order to provide the opportunity for one of the Ward Councillors to address the Committee.

Officer Introduction

(2) The Principal Planning Officer, Maria Seale, introduced the application and gave a presentation by reference to site plans drawings, elevational drawings and photographs. Reference was also made to the earlier application BH2015/00445 which had been refused by Committee and dismissed subsequently at appeal as the

Inspector had determined that the proposal would significantly harm the living conditions and outlook of the occupiers of Nos 40-43 Queens Gardens. The current application had been revised in order to seek to address the earlier reasons for refusal. The main considerations related to the principle of the change of use, the impact of the proposed building on neighbouring amenity, and transport and sustainability impacts.

- (3) Investigations carried out had indicated that the existing flea market, bric-a-brack stalls and café use had been intermittent over a period of time and the current uses and associated structures were unauthorised. Site coverage of the building, its position within the site, its access and use of render had been established by previous Appeal Inspector decisions. On balance, the proposed development was now considered to be of an appropriate design which would not harm the character or appearance of the surrounding North Laine Conservation Area. The amended plans received showed a more traditional mansard roof, the height of the roof would also be lower than the previously proposed barrel roof and traditional pitched roof.
- (4) The proposed building would sit within the remaining flint walls on the western side boundary and would ensure those historic boundary treatments. To the front, the existing undercroft timber gates were to be retained with a side door adjacent removed and infilled to match the adjacent wall. No harm had been identified with this element of the proposal. Likewise the provision of cycle and refuse stores within the undercroft was not considered to be of harm and approval was therefore recommended.

Public Speakers

- (5) Councillor Deane spoke in her capacity as a Local Ward Councillor setting out her objections to the scheme. Councillor Deane stated that in her view the current application differed very little from the application which had been refused in August 2015. The site represented a hidden gem which reflected the unique character of the North Laine. Social historian Dr Geoffrey Mead of the University of Sussex supported its retention and she considered it would be a sad loss if this piece of local history was lost irrevocably.
- (6) Ms Petrykow spoke on behalf of the applicants in support of their application. Ms Petrykow stated that the current application included amendments in response to the previous refusals and objections including those relating to the design of the roof. It was important to note that Diplock's Yard in use between 1915 and 1975 as a site from which barrows could be hired for use by the rag and bone trade had never been authorised for use as a market site and had never been a public space.

Debate and Decision Making Process

- (7) Councillor Russell-Moyle stated that he supported the application, considering that the proposed changes would significantly improve the existing roof scape and outlook from neighbouring properties which currently looked out on a tin shack shanty town.
- (8) Councillor Miller stated that he also supported the application which would provide a greater number of jobs above than the current use.

- (9) Councillor Littman stated that he considered that the changes to be effected to the roof line in concert with the other amendments proposed would address the previous reasons for refusal.
- (10) Councillor Mac Cafferty stated that in his view very little had changed from the previously refused application, the roof had been lowered by 0.7m, which was very little and would still result in a detrimental outlook and harmful impact to the neighbouring residential dwellings and site itself. Councillor Morris concurred in that view stating that he shared Councillor Mac Cafferty's concerns.
- (11) Councillor Gilbey stated that although she had voted that the previous application be refused, she considered that the grounds for refusal had been addressed and considered that the current application was acceptable and would be voting that planning permission be granted.
- (12) A vote was taken and of the 10 Members present at the meeting when the vote was taken, planning permission was granted on a vote of 8 to 2.

83.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

Note: Having declared a personal and prejudicial interest in the above application the Chair, Councillor Cattell, withdrew from the meeting during its consideration and took no part in the decision making process. Councillor C Theobald was not present during consideration of the application.

F BH2016/02229- 34 Walmer Crescent, Brighton - Full Planning

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

Officer Presentation

- (1) The Principal Planning Officer, Stewart Glasser, stated that the application had been deferred at the meeting of the Committee held on 12 October 2016 in order to enable investigations to be carried out regarding a possible HMO use at no 38 Walmer Crescent. It had been confirmed in writing that the owners of no 38 were a housing co-operative with 7 tenants in that property. As they did not have planning permission for that Sui Generis use an enforcement case had been opened and in the interim a planning application had been submitted to regularise that use.
- (2) The recent application in respect of 38 Walmer Crescent to regularise its use would be considered in the light of its own planning history and to the extant permission at no 34. The extant planning permission in respect of no 34 had been in place prior to use of no 38 coming to light and as a Class C4 use was already established in respect of no 34 it would be unreasonable to refuse this application and it was therefore recommended for grant.

Debate and Decision Making Process

- (3) Councillor Miller stated that the additional information given was welcomed as it set the application in context, on the basis of the information given he considered it was acceptable and felt that he could support it.
- (4) Councillor Miller proposed that an additional condition be added to any permission granted that permitted development rights be removed. This was seconded by Councillor Hyde and was voted on as the substantive recommendation.
- (5) A vote was taken and the 8 members present when the vote was taken voted unanimously that planning permission be granted on a vote of 7 with 1 abstention to include a condition that that permitted development rights be removed.

83.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report and to an additional condition removing permitted development rights.

Note: Having declared a prejudicial interest in the above application, Councillor Yates left the meeting during its consideration and took no part in the discussion or voting thereon. Councillors Bennett, Mac Cafferty and Russell-Moyle were also not present during the discussion or voting.

G BH2016/02431- East Street Bastion, Grand Junction Road, Brighton - Full Planning

Erection of refreshment kiosk formerly located above the West Street shelter hall with A5 use.

Officer Presentation

- (1) The Principal Planning Officer, Maria Seale introduced the application and gave a presentation in respect of it, by reference to plans and photographs. It was explained that the kiosk had been relocated from its original location at the bottom of East Street in consequence of the demolition and replacement of the existing shelter hall and external steps at that location. The kiosk had been removed in order to facilitate its repair, restoration and relocation to East Street Bastion and removal of a section of seafront railings (approved 31/3/2016). The principal of relocation had been accepted during consideration of the previous application.
- (2) Over the years the kiosk had incorporated a number of unsympathetic additions and alterations and the proposal would result in a much improved appearance which was welcomed. The proposal was considered to comply with relevant local policies and to improve and enhance the special character and appearance of the Conservation Areas and the setting of the listed buildings, approval was therefore recommended.

Public Speakers

- (3) Councillor Druitt spoke in his capacity as a Local Ward Councillor setting out his concerns in respect of the proposal and those of local residents. He stated that whilst supportive of the scheme in principle both he and local residents had concerns that the proposals had not been consulted on as widely as they should, nor had their concerns regarding the siting of the kiosk which they considered would impede access by emergency vehicles been heeded. There were also concerns the proposed location would result in problems to local traffic flow, and could give rise to noise and disorderly behaviour in the light of the late terminal hour in the context of its location in close proximity to late night venues. It should be noted that the Police had given their support to a day time only operating schedule. In their opinion there had been a failure to engage with residents appropriately.
- (4) Councillor Mac Cafferty stated that he understood residents' concerns in relation to late night noise and disturbance and asked Councillor Druitt whether an earlier closing time for the premises would address that. Councillor Druitt responded that besides the hours of operation there were also concerns regarding the obstruction and obscured sight lines which would result from customers queuing to use the kiosk at the proposed location. The location of seating remained to be agreed and he considered that should be located well away from the kiosk itself.
- (5) In answer to questions by Councillor Yates, Councillor Druitt confirmed that he was also concerned that those queuing to use the kiosk at busy times would spill out onto the nearby cycle lane.

Questions for Officers

- (6) It was explained in answer to questions that it was understood that the Council's Seafront Office and East Sussex Fire and Rescue had been consulted on the proposals. The Seafront Office had raised no objections and had commented that emergency access would not be impeded by the proposed location.
- (7) Councillor Hyde enquired regarding the proposed access arrangements and the Development & Transport Assessment Manager, Steven Shaw, confirmed that only Junction Road itself was public highway. The arrangements put into place were considered adequate as in the event of an emergency it access by vehicles would not be impeded. The vicinity was recognised as having a high concentration of pedestrian traffic and it was not considered that the kiosk would have a detrimental impact.
- (8) Councillor Miller requested details of where pedestrian pinch points would occur in the vicinity of the kiosk, also in respect of the location of the extractor fan. It was confirmed that this would be sited as unobtrusively as possible.
- (9) Councillor Moonan sought clarification as to whether it was practicable to move the kiosk and it was explained that the proposed location was considered to be the most appropriate.
- (10) Councillor Morris sought confirmation regarding use of the adjacent patio area but it was confirmed that was not a planning matter.

Debate and Decision Making Process

- (11) Councillor Mac Cafferty stated that he had concerns regarding both the proposed terminal hour which he considered could give rise late night disturbance; he also considered that it was important to ensure that noise levels emanating from the premises were controlled and it was confirmed that Condition 4 could be amended to specify that no amplified music would be permitted.
- (12) Councillors Hyde and Littman stated that they supported the application and considered that the proposed location was appropriate and did not consider that access for emergency vehicles would present a problem.
- (13) Councillor Miller supported the application but agreed with Councillor Mac Cafferty that the terminal hour should be earlier than proposed; also that final agreement on materials should be by the Committee.
- (14) Councillor C Theobald supported the application stating that she was pleased that the kiosk would be renovated to the extent proposed.
- (15) Councillor Yates stated that he considered that the reference to highway in condition 11 was now superfluous and could be removed and the case officer confirmed that was so.
- (16) Councillor Mac Cafferty proposed that the terminal hour of operation of the kiosk be 11.00pm, this was seconded by Councillor Miller, was voted on, was carried and became the substantive recommendation. The hours of operation of the premises would therefore be 07.00am – 11.00pm.
- (17) A vote was taken and Members voted on a vote of 7 to 4 with 1 abstention that planning permission be granted as amended to require the premises to close by 11.00pm.

83.7 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the conditions and Informatives also set out in the report and as amended below:

Condition 3: The kiosk hereby permitted shall not be open to customers except between the hours of 07:00am and 11.00pm;

Condition 4: no amplified music from the premises;

Condition 11: remove the reference to “facing the highway”.

H BH2016/02810- 57 Hornby Road, Brighton - Full Planning

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

Officer Presentation

- (1) The Principal Planning Officer, Stewart Glassar, gave a presentation delineating the scheme by reference to site plans drawings, floor plans and photographs showing the internal layout of the property, including the bedrooms, communal lounge/dining area and kitchen.
- (2) It was explained that occupancy of the property would be restricted to 4 unrelated persons residing within the property. It was not therefore considered that any increased impact to adjoining occupiers in terms of noise and disturbance would be of sufficient magnitude to warrant refusal of planning permission. The overall percentage of HMO's within a 50m radius of the application site was 3.03% which was within the 10% limit specified within policy CP21. As such, the cumulative impact of the proposed HMO on the area was not considered to cause harm to local amenity; approval was therefore recommended.

Questions of Officers

- (3) Councillor Russell-Moyle stated that he noted that the lounge/diner for a HMO was expected to be of a size where all occupants could sit and relax together comfortably and sit around a table and eat. It was also noted that although there was a sofa, TV and dining table in this room that it was cramped. Notwithstanding that the bedrooms were considered to be of sufficient size and had good circulation space he queried whether the communal space met the national space standards required under the Housing Act, letting rooms at the property appeared to be of 9sqm when the national standard was 10sqm. Also, whether retrospective permission could be applied for an HMO?
 - (4) The Legal Adviser to the Committee, Hilary Woodward, stated that it was her understanding that legislation in respect of HMO's and the Housing Act were separate.
 - (5) Councillor Morris concurred with the views expressed by Councillor Russell-Moyle stating that he was also concerned regarding the number of letters of objection from other residents expressing concern regarding loss of amenity. In view of those concerns he considered that it was important to establish that all required standards were being met and that rooms particularly those intended for communal use were of sufficient size.
 - (6) In answer to questions by Councillor Miller it was explained that any potential impact on neighbouring amenity was not considered such that refusal could be sustained at appeal; the application also fell within the Council's own policy requirements.
 - (7) Councillor Russell-Moyle proposed that further consideration and determination of the application be deferred pending confirmation of the requirements to meet space standards.
- 83.8 **RESOLVED** – That consideration and determination of the above application be deferred for further information to be provided regarding any requirements in relation to space standards and dimensions of the individual rooms with particular reference to the shared lounge/dining room area.

Note: Having declared a prejudicial interest in the above application by virtue of his letter of objection which was appended to the officer report, Councillor Yates left the meeting during its consideration and took no part in any of the discussions thereon.

I BH2016/05020 - 80 & 80A Crescent Drive South, Woodingdean - Full Planning

Demolition of existing 2no storey houses and erection of 4 no three bedroom two storey houses.

It was noted that this application had formed the subject of a site visit prior to the meeting.

- (1) Members did not request a presentation and had no questions of officers in respect of the application and therefore moved directly to the vote.
- (2) A vote was taken and the 10 Members of the Committee who were present when the vote was taken voted unanimously that planning permission be granted.

83.9 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

Note: Councillors Mac Cafferty and C Theobald were not present at the meeting when the vote was taken.

J BH2016/00448-11 Radinden Drive, Hove - Full Planning

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

- (1) The Committee were of the view that it would be appropriate to defer consideration of the above application pending a site visit.

83.10 **RESOLVED** – That the above application be deferred in order to enable a site visit to take place.

K BH2016/02586-37 Preston Drove, Brighton - Full Planning

Application for variation of condition 3 of application BH2015/02881 (Variation of condition 2 of application BH2004/03648/FP (Change of use from house (C3) and Doctors Surgery (D1) to children's nursery for 60 children and bedsit. Erection of part single storey/part two storey rear extension) to state the number of children using the day nursery at any time shall not exceed 80 without the prior approval of the Local Planning Authority) to permit the premises to be open between 07.00 hours and 19.00 hours on Monday to Fridays.

- (1) Members did not request a presentation and had no questions of officers in respect of the application and therefore moved directly to the vote.
- (2) A vote was taken and the 10 Members present when the vote was taken voted by 9 with 1 abstention that planning permission be granted.

83.11 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

Note: Councillors Mac Cafferty and C Theobald were not present at the meeting when the vote was taken.

L BH2016/05437- Media House, 26 North Road, Brighton - Full Planning

Extensions and alterations to main building to facilitate the conversion from office/general industry (B1/B2) to form 4no residential dwellings (C3) and extension and alterations to secondary building (The Coach House) to provide additional office space (B1).

Officer Presentation

- (1) The Principal Planning Officer, Stewart Glassar, gave a presentation detailing the proposed scheme by reference to site plans, drawings and photographs which showed the existing and proposed schemes. The application site consisted of three buildings; the vacant three storey print workshop (ground floor) with offices above, a two storey work shop/store building and the Mission Hall, located to the east of the main building connected by an internal link extension. The latter was currently in residential use and no changes were proposed to that part of the site which had car parking located at the rear.
- (2) It was considered that the current scheme would result in a preferential outcome from previous approvals and the extant permission because it would increase the number of residential units and would provide employment space within the site to off-set any loss. It was also considered that the external alterations to the main building and coach house would result in heritage benefits to the scheme. On that basis the change of use from employment to residential was considered acceptable and approval was recommended.

Public Speakers

- (3) The Democratic Services Officer, Penny Jennings, read out a statement on behalf of objectors who were unable to be present. They were of the view that proposals would result in loss of amenity for neighbouring residents, notwithstanding amendments made to the current application.
- (4) Councillor A Norman spoke in her capacity as a Local Ward Councillor setting out her objections to the proposed scheme and those of her fellow Ward Councillors. She stated that she considered that the current application differed very little from the previously refused scheme and would impact detrimentally on neighbouring residential properties. Additionally, residents were concerned that these properties could be turned into flats for multiple occupation, if permission was to be granted it was requested that a condition be added to be prevent this.

- (5) Mr Dowsett spoke on behalf of the applicants in support of their application. He explained that the current scheme had undergone significant amendments in order to address the previous reasons for refusal and the objections of neighbouring residents.

Questions of Officers

- (6) Councillor Russell-Moyle sought confirmation regarding the number of proposed traffic movements which would be generated by residential as opposed to office use. Councillor Russell-Moyle stated that he was concerned that additional journeys could increase any detrimental impact on adjacent residential properties. It was confirmed that the office use had been redundant for some time; it was considered however that the proposal would not increase trips significantly above existing levels or above the previously approved application for three dwellings. Councillor Russell-Moyle also requested to see plans delineating the differences between the previously refused scheme and the current one.
- (7) Councillor Hyde enquired whether the new building to be provided on site had been reduced in height in order to address concerns expressed regarding the sense of enclosure which would result from the previously refused scheme. The Planning Officer explained that the amendments made to the scheme, including building heights had sought to address how the development would sit in the wider street scene.
- (8) Councillor Morris asked to see visuals of the east elevation in the context of neighbouring development.
- (9) Councillor Mac Cafferty sought clarification as to whether consideration had been given to issues raised in relation to potential drainage problems. It was confirmed that this had not been addressed specifically but that if the Committee were minded to do so an informative could be added to that effect.
- (10) Councillor Moonan sought clarification regarding the distance between the coach house and the boundary with the neighbouring development in the proposed and previously refused scheme.
- (11) Councillor Miller sought clarification whether the heritage team was satisfied with the proposed materials and it was confirmed that they were.
- (12) Councillor C Theobald sought clarification of the width and dimensions of the courtyard gardens which would be associated with the dwelling houses.
- (13) Councillor Yates referred to the concerns expressed by objectors regarding access arrangements and it was explained that access arrangements to the residential dwellings was separate from that for the Coach House.

Debate and Decision Making Process

- (14) Councillor Russell-Moyle stated that he considered the amended scheme including changes to the roof slope were more sympathetic to the site and the neighbouring street scene and that he was happy to support the scheme.

- (15) Councillor Littman concurred stating the current proposals represented an improvement which he supported.
- (16) Councillor Morris stated that he was in agreement that the design and appearance of the scheme had been improved upon and was now acceptable.
- (17) Councillor Miller stated that he had concerns regarding the loss of B1 floor space which he considered ran contrary to the Council's own policies.
- (18) Councillor C Theobald stated that whilst she was pleased that the height of the development had been reduced she very concerned that the "gap" between the development and the neighbouring boundary was very narrow.
- (19) A vote was taken and on a vote of 10 with 2 abstentions planning permission was granted.

83.12 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

M BH2016/02377- 11 Coombe Vale, Saltdean, Brighton- Full Planning

Roof alterations incorporating hip to barn end roof extension, rear dormers, front rooflight and front and side windows and erection of front porch extension (amended plans)

- (1) The Committee were of the view that it would be appropriate to defer consideration of the above application pending a site visit.

83.13 **RESOLVED** – That the above application be deferred in order to enable a site visit to take place.

N BH2016/01925- Canons, 27A Preston Park Avenue, Brighton -Full Planning

Demolition of existing dwelling and erection of 1no two storey three bedroom dwelling (C3).

It was noted that this application had been the subject of a site visit prior to the meeting.

Officer Presentation

- (1) The Principal Planning Officer, Stewart Glassar, gave a presentation detailing the proposed scheme by reference to site plans, elevational drawings and photographs. It was explained that the submitted scheme sought to address the earlier refused scheme which had been dismissed at appeal by reducing the overall height by 1.2 m to match the height of the existing building, by the introduction of new screening to the boundary, the omission and amendment of several aspects of the fenestration to the southern side elevation and clarification regarding the proposed southern boundary and neighbouring buildings.

- (2) It was explained that particular areas of concern related to flats 1 and 6 Whistler Court in consequence of their close proximity to the development site and the relevant floor levels. Following amendments to the scheme at first floor level including the installation of louvred obscure glazing to the glazed link and erection of a 2m timber fence it was not considered that significant overlooking or loss of privacy would arise. Whilst substantial glazing was proposed to the main living area it was considered that the boundary treatment and differences in levels would restrict views. The internal area adjacent to the first floor rear window would accommodate a void for the staircase. As occupiers could not stand within that area views would be restricted further. It was therefore recommended that approval be given.

Public Speakers

- (3) Ms Kumins/Mr Murdoch spoke on behalf of objectors setting out their objections to the scheme. Mr Murdoch stated that he was speaking on behalf of neighbouring occupiers of Park Court and Whistler Court respectively. He stated that the proposed scheme would have a far greater footprint than the existing building and would be very close to the boundary with Whistler Court. The impact on no 6 (his property), would be particularly detrimental; it would result in undue over-looking, loss of privacy and would be unneighbourly. The proposed fence would not address the loss of planting which would result.
- (4) Ms Moune spoke on behalf of the applicants in support of their application. Ms Moune explained that the current scheme had been carefully designed in order to address and mitigate concerns raised and to respect the neighbouring developments.

Questions of Officers

- (5) Councillor Littman sought confirmation whether as the consultation period (7 December), had now expired, the application was now recommended for grant rather than minded to grant and it was confirmed that was so.
- (6) Councillor Russell-Moyle asked whether an additional condition could be added, or the existing condition expanded, in order to ensure that any vegetation removed would be replaced on a like for like basis. It was explained that this would not be practicable, however, the applicant had confirmed in writing that they would replace any vegetation lost in consequence of the building works, particularly in connection with the boundary with Whistler Court.
- (7) Councillor Morris sought confirmation of the number of bedrooms in the existing building and following completion of the proposed development.

Debate and Decision Making Process

- (8) A vote was taken and the 10 Members present when the vote was taken voted unanimously that planning permission be granted.

83.15 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to grant planning permission subject to the Conditions and Informatives also set out in the report.

Note: Councillors Mac Cafferty and C Theobald were not present at the meeting during consideration of the above application.

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

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

Application:	Requested by:
BH2016/02377, 11 Coombe Vale, Saltdean	Councillor Hyde
BH2016/00448, 11 Radinden Drive, Hove	Councillor Bennett

85 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS

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

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

86.1 That the Committee notes the details of applications determined by the Executive Director Economy, Environment & Culture under delegated powers.

[Note 1: All decisions recorded in this list are subject to certain conditions and reasons recorded in the planning register maintained by the Executive Director Economy, Environment & Culture. 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.]

87 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE

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

88 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

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

89 APPEAL DECISIONS

89.1 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 9.00pm

Signed

Chair

Dated this

day of

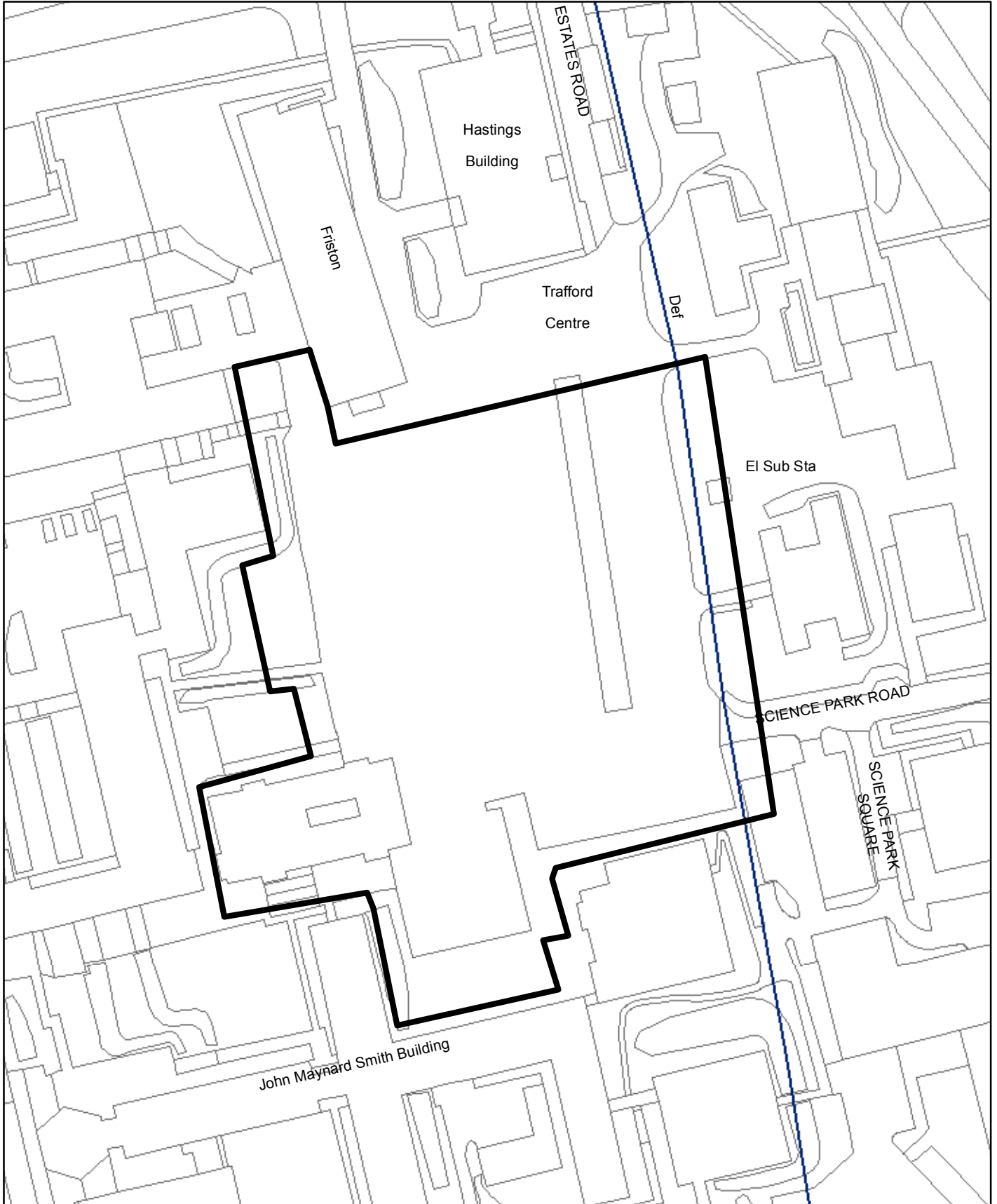
ITEM A

**Genome Centre & Land Adjoining To East
Within The Science Car Park, Science Park
Rd, University Of Sussex, Brighton**

BH2016/05810

Full Planning

DATE OF COMMITTEE: 8th Feb 2017



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/05810	<u>Ward:</u>	Hollingdean And Stanmer Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Genome Centre & Land Adjoining To East Within The Science Car Park Science Park Road University Of Sussex Falmer		
<u>Proposal:</u>	Refurbishment of the existing Genome Centre building and erection of a new Life Sciences building (D1) (14,910 sqm) over four floors plus basement with associated access, servicing and landscaping.		
<u>Officer:</u>	Kate Brocklebank, tel: 292454	<u>Valid Date:</u>	11.11.2016
<u>Con Area:</u>	Adj Stanmer Conservation Area	<u>Expiry Date:</u>	03.03.2017
		<u>EoT/PPA Date</u>	14.04.2017
<u>Listed Building Grade:</u>	Within the Setting of Grade II* and Grade I listed buildings		
<u>Agent:</u>	Parker Dann Ltd, S10, The Waterside Centre, North Street, Lewes, BN7 2PE		
<u>Applicant:</u>	University Of Sussex, Sussex House, University Of Sussex, Falmer Brighton, BN1 9RH		

1. RECOMMENDATION

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

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Floor Plans Proposed	1630-HKB-XX-03-DR-PL20-105	P01	21 January 2016
Floor Plans Proposed	1630-HKB-XX-RF-DR-PL20-106	P01	21 January 2016
Elevations Proposed	1630-HKB-XX-XX-EL-A-PL20-120	P01	21 January 2016
Elevations Proposed	1630-HKB-XX-XX-EL-A-PL20-121	P01	21 January 2016

Elevations Proposed	1630-HKB-XX-XX-EL-A-PL20-122	P01	21 January 2016
Elevations Proposed	1630-HKB-XX-XX-EL-A-PL20-123	P01	21 January 2016
Elevations Proposed	1630-HKB-XX-XX-EL-A-PL20-124	P01	21 January 2016
Elevations Proposed	1630-HKB-XX-XX-EL-A-PL20-125	P01	21 January 2016
Elevations Proposed	1630-HKB-XX-XX-SE-A-PL20-110	P01	21 January 2016
Elevations Proposed	1630-HKB-XX-XX-SE-A-PL20-111	P01	21 January 2016
Landscaping Proposed	8221-PL-GA-00-101	P01	21 January 2016
Landscaping Proposed	8221-PL-GA-02-101	P01	21 January 2016
Landscaping Proposed	8221-PL-GA-03-101	P01	21 January 2016
Block Plan Existing	1630-HKB-XX-DR-A-PL01-001	P01	21 October 2016
Block Plan Existing	1630-HKB-XX-DR-A-PL01-002	P01	21 October 2016
Site Layout Plan	1630-HKB-XX-DR-A-PL20-001	P01	21 October 2016
Block Plan Proposed	1630-HKB-XX-DR-A-PL20-002	P01	21 October 2016
Existing Elevations	1630-HKB-XX-XX-DR-PL01-101	P01	21 October 2016
Existing Elevations	1630-HKB-XX-XX-DR-PL01-120	P01	21 October 2016
Floor Plans Proposed	1630-HKB-XX-B1-DR-PL20-101	P01	21 October 2016
Floor Plans Proposed	1630-HKB-XX-00-DR-PL20-102	P01	21 October 2016
Floor Plans Proposed	1630-HKB-XX-01-DR-PL20-103	P01	21 October 2016
Floor Plans Proposed	1630-HKB-XX-02-DR-PL20-104	P01	21 January 2016

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

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

- 3 Any tree works carried out in connection with the development hereby approved shall be undertaken in accordance with the approach detailed in paragraphs 4.3 to 4.4 of Appendix 1 (Bat Survey Report) received 21 October 2016.

Reason: To safeguard these protected species from the impact of the development in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.

- 4 Prior to first occupation of the development hereby permitted details showing the type, number, location and timescale for implementation of compensatory bat boxes shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall then be carried out in strict accordance with the approved details.

Reason: To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.

- 5 No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of the green roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that the development contributes to ecological enhancement on the site and in accordance with policy CP10 of the Brighton & Hove City Plan Part One.

- 6 No development above ground floor slab level of any part of the development hereby permitted shall take place until a drainage strategy detailing the proposed means of foul water disposal and an implementation timetable, has been submitted to and approved in writing by, the Local Planning Authority in consultation with the sewerage undertaker. The development shall be carried out in accordance with the approved scheme and timetable.

Reason: To ensure adequate foul sewage drainage/treatment is available prior to development commencing and to comply with policy SU5 of the Brighton & Hove Local Plan.

- 7 No development above ground floor slab level of any part of the development hereby permitted shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved details.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policies SU4 of the Brighton & Hove Local Plan and CP11 of the Brighton & Hove City Plan Part One.

- 8 No hedgerow, tree or shrub shall be removed from the site between 1st March and 31st August inclusive without the prior submission of a report to the local planning authority which sets out the results of a survey to assess the nesting bird activity on the site and describes a method of working to protect any nesting bird interest. The report must first be agreed in writing by the local planning authority and development shall be carried out in accordance with the approved details.
Reason: To safeguard these protected species from the impact of the development in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.
- 9 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
Reason: To ensure that any contamination identified during the construction works is fully characterised and assessed and to comply with policy SU11 of the Brighton & Hove Local Plan.
- 10 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
Reason: Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater in accordance with policy SU3 of the Brighton & Hove Local Plan.
- 11 Unless otherwise agreed in writing by the Local Planning Authority, the non-residential development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' 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 Brighton & Hove City Plan Part One.
- 12 Prior to first occupation of the development hereby approved, details of the photovoltaic array referred to in the Energy Strategy received 21 October 2016 shall be submitted to and approved in writing by the Local Planning Authority. The photovoltaic array shall then be installed in accordance with the approved details.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.

- 13 Prior to first occupation, the development hereby approved shall be connected to University of Sussex's district heating system.

Reason: To ensure that the development is sustainable and makes efficient use of energy and to comply with policy CP8 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 a sample of the external facing materials used in the construction of the development, including colour, along with details of the manifestations to be applied to the glazing and the following hard landscaping features; hard surfacing/paved areas, bollards, fixed seating and litter bins have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

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

- 15 The handrails used in the construction of the new extension of the monumental east-west steps up to the building hereby approved shall match the existing handrail in design, material and finish.

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

- 16 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) Soft surfacing;
- b) Details of any boundary treatments;
- c) Details of all proposed planting to all, including numbers and species of plant, and details of size and planting method of any trees and shall include native species of local provenance.

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

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

- 17 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.
- 18 The nine disabled car parking spaces shown on the approved plans shall be provided and available for use prior to the first occupation of the development hereby approved.
Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14 Parking Standards.
19. Before any equipment, materials or machinery are brought onto the site for the purposes of development, a pre-commencement site meeting between the Tree Officer, Arboricultural Consultant and Site Manager shall take place to confirm the protection of trees on and adjacent to the site in accordance with the Arboricultural Impact Appraisal and Method Statement prepared by S J Stephens Associates Project ref 864.1 dated December 2016. The tree protection shall be positioned as shown on the Tree Protection Plan job no. 864.1 Dated Dec 16 before any equipment, materials or machinery are brought onto the site for the purposes of the development. The tree protection shall be retained until the development is completed and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the written consent of the Local Planning Authority. This condition shall not be discharged until an arboricultural supervision statement, the contents of which are to be discussed and agreed at the pre-commencement meeting, is submitted to and approved in writing by the Local Planning Authority on completion of development.
Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
20. No development shall take place until a scheme of supervision for the arboricultural protection measures have been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and will include details of:
- a) Induction and personnel awareness of arboricultural matters.
 - b) Identification of individual responsibilities and key personnel.
 - c) Timing and methods of site visiting and record keeping, including updates.
 - d) Procedures for dealing with variations and incidents.
 - e) The scheme of supervision shall be carried out as agreed.

- f) The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

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

- 21. Notwithstanding details already submitted within the Arboricultural Impact Appraisal and Method Statement, no development above ground floor slab level of any part of the development hereby permitted shall take place until full plans and particulars showing the final siting of the services and soakaways have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 22. Prior to the first occupation of the buildings on the Phase 2 Site, a “lighting design strategy for biodiversity” for the buildings and car parks on the Phase 2 Site shall be submitted to, and approved in writing by, the local planning authority. The strategy shall:

- a) Identify those areas/features that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites, resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) Show how, and where, external lighting will be installed on the Phase 2 Site (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting on the Phase 2 site shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. No other external lighting shall be installed other than in accordance with the approved strategy.

Reason: To safeguard these protected species from the impact of the development in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.

- 23. No works on the Phase 2 Site which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to, and approved in writing by, the local planning authority. The measures may include the creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of the working day; and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day. The scheme shall be implemented in accordance with the approved details.

Reason: To safeguard these protected species from the impact of the development in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.

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 enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure and connection to water supply is required to service the development and should contact: Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. The design should take account of surcharging within the public sewerage system. Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.
3. The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March - 30th September. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to the University of Sussex campus which occupies circa 94 hectares of parkland at Falmer, at the foot of the South Downs National Park. The campus sits within a valley with the A27 to its south. The South Downs National Park climbs to the north and east of the campus. To the west lies Stanmer Park, which is a Grade II registered historic park and garden.
- 2.2 The University was designed by Sir Basil Spence in the 1960s and was the first of seven new post war universities in the country. Sir Basil Spence prepared the masterplan in 1959 and the first buildings were ready for occupation in 1962. Ten of the University's original buildings have been listed, all of which are based around Fulton Court (nine at grade II* and Falmer House at grade I). These determine the general character, architectural tone and presence of the campus. Similarly, the landscape, designed by Spence in consultation with Dame Sylvia Crowe, plays an equally important role to the buildings in setting the tone and character of the campus. The listed buildings, essentially the core of the campus, have a very high degree of architectural significance in their careful contextual design and materials and historic significance in relation to the campus as a model of educational organisation.

- 2.3 The University's boundary lies predominantly within the local planning area of Brighton & Hove City Council although a small area in the south eastern corner of the site falls within Lewes District Council. This includes part of the current application site area running along the eastern edge.
- 2.4 The application relates to an area within Phase 2 of the masterplan known as the Academic Area. The site is steeply sloping and is formed of the existing three storey Genome building and surface car parking.
- 2.5 To the west of the campus lies Stanmer Park, which is a Grade II registered historic park and garden. The University campus occupies the former south-east corner of the park. Due to topography and the presence of ancient woodland the University campus has very limited inter-visibility with the registered park.
- 2.6 Stanmer Conservation Area occupies much of the registered park area and contains a significant number of listed buildings, particularly within Stanmer village, but also including the grade II listed Lower Lodges.
- 2.7 Application:
The proposal involves the refurbishment of the existing Genome Centre and construction of a new Life Sciences Building with associated access, servicing and landscaping. The application forms a standalone full planning application rather than reserved matters application on the basis that the location and footprint of the building and the access arrangements differ when compared with the approved masterplan outline planning permission (BH2013/04337).
- 2.8 The existing Genome Centre building totals 2,889sqm and this total will remain the same once refurbished. A new link extension is proposed from the Genome building to the new Life Sciences Building which is proposed to be sited to the east of the Genome building. The new Life Sciences building will total 14,911sqm. The proposed access points have been designed and located to link up to existing access routes throughout the campus and those previously approved under the wider masterplan. The majority of the building will accommodate research laboratories, meeting and seminar spaces and offices for the Life Science department along with a café area at ground floor level on the north side of the building. The maximum height of the new building is 97m AOD within the parameter of the approved masterplan of 97.5 AOD; the maximum height including the rooftop plant is 99.4m AOD. The main building will measure approximately 63m width (excluding the link extension) and 78m depth and to a maximum height of approximately 21m in height to the top of the proposed roof plant screen and 18.5m to the parapet.
- 2.9 A service yard is proposed to the rear of the Genome Centre and to the east of the new Life Sciences building which will also contain refuse/recycling storage, controlled waste and chemical stores for the two buildings along with cycle parking. The yard is proposed to be partially concealed behind a mesh screen with planting including climbing plants.
- 2.10 With the exception of 9 disabled parking spaces, no additional car parking is proposed. The existing science park car park contains a total of 467 car parking

spaces, following construction of the development 58 spaces will be retained in the wider car park area to the north of the site, the remainder will be re-provided across the campus as approved under the masterplan which includes the recent planning permission relating to the Jubilee car park (BH2016/03040). A total of 88 cycle parking spaces are also proposed as part of the development.

- 2.11 The Masterplan proposes no additional parking on site with the exception of an additional 61 car parking spaces for mobility impaired staff, students and visitors. The current application forms one of three car parks that are proposed for redevelopment across the campus, the loss of parking will be redistributed across the masterplan area in order to maintain the current level of parking at the University.
- 2.12 Amended masterplan (illustrative):
On the basis that the proposed building differs notably from the approved masterplan, the applicant has submitted an illustrative update to the masterplan layout. The illustrative plan aims to demonstrate how the development will be accommodated within the wider layout, whilst maintaining the key principles of the masterplan and to demonstrate how the proposed building would sit within the wider academic area as the rest of Phase 2 is brought forward. In addition the plan demonstrates how the quantum of academic floorspace will be adjusted in order to remain within the maximum of 43,034sqm of academic floorspace approved under the outline scheme.
- 2.13 Pre-application discussions and negotiations:
The proposed scheme has been the subject of pre-application negotiations and discussions and was presented to Planning Committee Members twice prior to formal submission.

3. RELEVANT HISTORY

BH2016/03040: Erection of a 4no storey carpark with associated landscaping and improved pedestrian and vehicle access. Approved 16 December 2016.

BH2016/01001: Demolition of existing buildings and redevelopment to 'East Slope' to create a mixed use six storey building comprising entertainment and assembly venue, bar, meeting space, ancillary office space, flexible retail floorspace (A1, A3, A4) and 249 student bedrooms with associated landscaping and bicycle storage. Approved 22 September 2016.

BH2016/01004: Reserved matters application for approval of appearance, landscaping and layout in relation to 'Phase 1 - East Slope' development which includes 1,868 student bedrooms and ancillary accommodation, pursuant to outline approval

BH2013/04337: (Demolition of existing buildings and construction of new buildings providing new academic facilities (D1) circa 59,571sqm, 4,022no new student accommodation bedrooms (C1) and new mixed use building circa 2,000 sqm, providing (A1, A3, A4, C1 and D1) uses, incorporating new pedestrian,

cycle, vehicular and service routes, landscaping, new parking, upgrading of related infrastructure and associated works). Approved 9 August 2016.

BH2013/04337: Outline application with some matters reserved for demolition of existing buildings and construction of new buildings providing new academic facilities (D1) circa 59,571sqm, 4,022no new student accommodation bedrooms (C1) and new mixed use building circa 2,000 sqm, providing (A1, A3, A4, C1 and D1) uses, incorporating new pedestrian, cycle, vehicular and service routes, landscaping, new parking, upgrading of related infrastructure and associated works. Matters for approval include layout, access and scale. Matters reserved are appearance and landscaping. (Layout subsequently reserved at appeal) Appeal allowed 30 July 2015.

4. REPRESENTATIONS

- 4.1 **External:**
Neighbours:
None received.

5. CONSULTATIONS

- 5.1 **County Ecology:** No objection
Surveys were carried out in accordance with best practice and are sufficient to inform appropriate mitigation, compensation and enhancement. There are no sites designated for their nature conservation interest that are likely to be impacted by the proposed development. The site comprises buildings and hard standing with scattered trees, a single continuous tree line with scattered scrub, areas of semi-natural woodland and introduced shrub, and is of relatively low ecological value.
- 5.2 No evidence of bats was found although the group of mature trees to the south of the site retain some potential for bats. A precautionary approach to tree works is therefore required; the approach detailed in paragraphs 4.3 to 4.4 of Appendix 1 (Bat Survey Report) is appropriate. The site is considered unlikely to support any other protected species and therefore no specific mitigation is required. If protected species are encountered during works, works should stop and advice should be sought from an ecologist on how to proceed.
- 5.3 **Mitigation Measures/Enhancement Opportunities**
The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and the Natural Environment and Rural Communities (NERC) Act. Opportunities include the use of species of known value to wildlife within the landscape scheme, the provision of a biodiverse green roof and the provision of bat boxes. Species should be native and of local provenance where possible. Advice on suitable species is provided in Annex 7 of SPD 11.
- 5.4 The soft landscape scheme outlined in the Design and Access Statement is supported. 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 enhancement that will help the Council address its duties and responsibilities under the NPPF and NERC Act. Conditions relating to protecting badgers during construction and securing a lighting design strategy for biodiversity are also recommended.

- 5.5 **Conservation Advisory Group (CAG): No objection**
CAG recognised that Sussex University campus is a microcosm of the city and has the same problems. The University needs to grow and have new buildings but is short of space.
- 5.6 Various views were expressed. There were some reservations about the mass of the building at a high point and some thought the suggested development would be visually inappropriate. Others thought more could have been done in terms of adhering to Spence's original design. Overall it was considered that it was a reasonable design and would be acceptable.
- 5.7 After discussion the Group recommend Approval
- 5.8 **Southern Gas Network: No objection**
A low/medium/intermediate pressure gas main runs near the site. There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. Where required confirmation of the position should be made using hand dug trial holes.
- 5.9 Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used.
- 5.10 Access to the pipeline shall be maintained throughout the duration of the operations.
- 5.11 **East Sussex Fire and Rescue: No objection**
When considering active fire safety measures for all types of premises, including residential and domestic buildings, East Sussex Fire & Rescue Service would recommend the installation of sprinkler systems. Information concerning guidance and standards for domestic and commercial sprinkler systems is available by reference to British Standard, Codes of Practice BS 9251 & BS EN 12845.
- 5.12 **Environment Agency: No objection**
Conditions we requested for application BH2016/01001 should be applied which relate to unsuspected contamination, piling and a construction method statement.
- 5.13 **Southern Water: No objection**
The results of an initial desk top study indicates that Southern Water currently cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would

increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area.

- 5.14 A condition should be attached to secure foul and surface water disposal along with an informative regarding the need for a formal agreement with Southern Water to provide necessary sewerage infrastructure.
- 5.15 Alternative means of draining surface water from the development is required - it is noted that reference is made to SUDS.
- 5.16 The design should take account of surcharging within the public sewerage system.
Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.
- 5.17 A formal application for connection to the water supply is required in order to service the development.
- 5.18 **Sussex Police: No objection**
A Secured by Design (SBD) application for the above development has been received from the Architect.
- 5.19 The SBD security topics discussed in order to satisfy the SBD scheme were; Access control, external and internal security rated doors, windows and glazing, position of reception, delivery vehicle roller shutter, control of hazardous substances and under-croft construction, positioning types of secure cycle storage and CCTV.
- 5.20 **Historic England: Comment**
The broad parameters for change at Sussex University are set out in the approved masterplan. No in principle objection is raised to the altered configuration of the Life Sciences building as now proposed.
- 5.21 The principal concerns with this full application for planning consent are to ensure that the new development conserves, and where possible enhances the significance of the listed buildings as derived from their setting as required by the National Planning Policy Framework paragraph 137 and amplified in our Good Practice Advice Note 3, The Setting of heritage assets.
- 5.22 To this end, Historic England are pleased to see that the monumental stair rising from the historic campus at Fulton Court beyond Pevensey I and II to the Genome Centre will not be terminated by built form; and that the form of the stair will continue east to provide access to the new building.
- 5.23 Similarly, it is clear that much consideration has been given to the elevational treatment of the new building, which actively seeks to reinforce the language of Spence's buildings, without slavishly copying it.
- 5.24 The only outstanding concern is with the roof top plant screen, which adds some considerable height to the new building. From the top of the library steps this

would be a particularly visible element of the new building which would Historic England think starts to impinge on the appreciation of the campus buildings sitting within the valley with treetops visible above built form - a similar point was made in Historic England's representations about the development proposed on the east slopes in the masterplan application. The visualisations included in the design and access statement from this viewpoint show the trees in full leaf, which Historic England consider could be misleading.

- 5.25 It is acknowledged that roof plant will be necessary, but would urge the Local Planning Authority to ensure that the amount proposed has been minimised as far as possible, and to explore the effect of omitting the perimeter screen, or reducing its height. It would be helpful to show this view to the building in winter conditions to properly assess the impact on the landscape context of the historic campus.
- 5.26 **Recommendation:**
Historic England has some concerns regarding the application on heritage grounds and consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 132 and 137 of the NPPF.
- 5.27 **Lewes District Council:** No objection
The Council has no objections in principle to the proposal, subject to BHCC being satisfied that the development would not cause parking and traffic problems outside the campus or have an inappropriate landscape impact.
- 5.28 **County Archaeology:** No objection
Although this application is situated within an Archaeological Notification Area, it is unlikely that any significant below ground archaeological remains would be affected by these proposals.
- 5.29 **Brighton & Hove Archaeology Society:** No objection
The Brighton and Hove Archaeological Society are unaware of any archaeological implications with regards changes to the building structure unless it is listed. The proposed new development is close to find spots from the Roman period and it is possible that vestiges of this ancient landscape may remain.
- 5.30 The Brighton and Hove Archaeological Society suggest that you contact the County Archaeologist for his recommendations.
- 5.31 **UK Power Networks:** No objection
- 5.32 **Internal:**
- 5.33 **Planning Policy:** No objection
The university is seeking to maximise the universities' own campus land for both academic floorspace as well as residential accommodation. This proposal is considered to comply with adopted city plan policy DA3 Lewes Road Area in securing new academic floorspace for the university campus.

- 5.34 Principle of development:
It is understood that further growth of the academic part of the campus was identified within the outline planning application for campus development submitted to the Council in December 2013 and approved on appeal (BH2013/04337) 30th July 2015. Under the outline planning permission, the proposed development will introduce a net increase of 2,530 beds and a net increase of 43,034 sq m of academic floorspace.
- 5.35 DA3 Lewes Road corridor The University campus falls within the DA3 Lewes Road area identified in the City Plan. The scheme is considered to be generally consistent with Local Priority 1 for the area and is considered not to raise any conflicts with policy DA3 of the Adopted City Plan Part One.
- 5.36 Waste Management:
Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction demolition and excavation. An SWMP has been submitted by the applicant. Compliance with Policy WMP3d should be required by condition.
- 5.37 **Public Art:** No objection
To make sure the requirements of local planning policy are met at implementation stage, it is recommended that an 'Artistic Component' schedule be included in the section 106 agreement.
- 5.38 Level of contribution:
This is arrived at after the internal gross area of the development (in this instance approximately 14,910 sqm) is multiplied by a baseline value per square metre of construction arrived at from past records of Artistic Component contributions for this type of development in this area. This includes average construction values taking into account relative infrastructure costs.
- 5.39 It is suggested that the Artistic Component element for this application is to the value of £37,000.
- 5.40 **Sustainability:** No objection
A Sustainability Statement has been submitted with the application which includes a BREEAM pre-assessment demonstrating a pathway and commitment to achieving a BREEAM 'excellent' standard.
- 5.41 The pre-assessment has been carried out for the development based on the BREEAM 2014 New Construction scheme which shows the Project can achieve a BREEAM 'Excellent' rating with a predicted score of 74.68%. The proposed building is targeted to achieve an EPC rating of 34, resulting in a "B" Rating.
- 5.42 The proposals respond well to policy CP8 and policy for decentralised energy in DA3.
- 5.43 The low and zero carbon energy solution proposed is to adopt district heating, air source heat pump and photovoltaics for the development. It is proposed that a site wide district heating infrastructure loop will be provided to the East of the

campus from the existing system in time for the Life sciences to connect to, for the heating and hot water for the building.

- 5.44 This approach addresses Policy CP8 and DA3, which seek decentralised and renewable energy proposals integrated into schemes.
- 5.45 The design has made the best use of site orientation, building form, layout, landscaping and materials to maximise natural light and heat, whilst avoiding internal overheating through appropriate ventilation and passive shading solutions.
- 5.46 It is especially welcomed that the scheme is proposing to explore grey water recycling.
- 5.47 It is proposed that only materials that are certified under a Green Product Certification Scheme in order to minimise the embodied energy and associated environmental impact and that during both construction and operation,
- 5.48 Approval is recommended with suggested conditions:
- BREEAM new construction 'excellent'
 - Details on decentralised energy proposals as set out in the Energy Strategy, confirming installation of the photovoltaic array, and connection to the site-wide district heating infrastructure has been achieved.

5.49 **Environmental Health:** No comment

5.50 **Heritage:** No objection

The Proposal and Potential Impacts:

The principle of new academic buildings on this site was established by the approved master plan application. That envisaged two separate buildings in an L shape on the southern half of the car park, with a landscaped courtyard to the west of them, whereas this proposal is for a single large building with a rectangular footprint. There is no objection in principle to this provided that a landscaped courtyard is instead created to the north of the site as part of a future phase, as indicated in the new illustrative masterplan, and this should be controlled via a s106 Agreement limiting the floorspace to that previously approved. The proposed footprint would be large by the standards of the campus, with only the Library being obviously larger. However, it would have deeply recessed entrances to the north and south and would be pierced by four open courtyards, which are a feature of original Spence academic buildings. It would also have an internal covered 'street' running through it.

5.51 The approved height parameter for this part of the site is 97.5m AOD; the proposed 4 storey building would have a parapet height of 97m, but the screening for the roof top plant would result in a total height of 99.4m (though the screening is set back from the main elevation). Whilst this total height does exceed the parameter height a little, the building height would still sit comfortably into its topographical and built context, as shown in the site section

drawings, where it maintains a comfortable 'stepping up the hill' in relation to its neighbours.

- 5.52 As demonstrated in the submitted views, the slightly greater overall height of the building, and its greater massing, would not make it very visible in the key views from the historic core of the campus and trees would continue to over-top the built development. It would also appear appropriate in scale in the key view up the long east-west steps as seen from North-South Road, where it would be seen in context with the grade II* listed Pevensey II building which sits in the foreground. The submitted Heritage Statement concludes that the building would have a negligible impact on the setting of the listed buildings and this conclusion is considered to be accurate; certainly there would be no harmful impact. In terms of wider views and impact, it is considered that there would be no impact on the setting of the Stanmer conservation area or on the registered park and garden at Stanmer, due to the minimal inter-visibility between them and the lack of strong historic connection.
- 5.53 The proposed design of the building has been subject to extensive pre-application discussions and follows a careful analysis of the original Spence design concept, as set out in the Design and Access Statement. It is considered that the design is a clearly contemporary building of suitably high architectural quality but makes strong reference to Spence design concepts, motifs and materials in its form and in its elevational treatment, albeit using these motifs and materials in a contemporary and distinct manner. The building would have the clear horizontality favoured by Spence but with a counterbalancing vertical rhythm provided by the scalloped brick columns and, above that, the series of colonnaded concrete fins. The choice of facing brick (and mortar) for the lower floors will be of crucial importance to ensure that the brickwork relates well to the original Spence buildings and especially Pevensey II. This ample brick should be submitted with the application. The faceted bronze-coloured metal screening to the roof top provides a suitable level of visual interest to this functional requirement. Manifestations to the glazing will need to be controlled by condition.
- 5.54 In terms of public realm and landscaping, the extension of the monumental east-west steps up to the new building is a welcome re-statement of a typical Spence feature. The handrails should match the existing. In general the approach to the public realm around the building is considered to be appropriate, subject to control of the hard surfacing materials by condition to ensure that they satisfactorily reflect the simple palette of materials seen on the original core campus.
- 5.55 Mitigations and Conditions:
As above, sample of all facing materials and hard landscaping materials should be submitted by condition, together with details of all manifestations to be applied to the glazing.
- 5.56 **City Regeneration:** No objection
City Regeneration fully supports this application as the development of this site will contribute to the enhanced offer for students from within and outside of the

UK, adding to the local talent pool of highly qualified graduates who will contribute to the local economy during their study and beyond.

- 5.57 If approved, City Regeneration requests a contribution through a S106 agreement for the payment of £149,100 towards the council's Local Employment Scheme in accordance with the *Developer Contributions Technical Guidance.
- 5.58 In addition, an Employment and Training Strategy is also required, to be submitted at least one month in advance of site commencement. The developer will be required to commit to using at least 20% local employment during the demolition phase (where possible) and construction phase (mandatory), and through their main contractor or sub-contractors will be expected to provide opportunities for training to include, but not limited to, apprenticeships and work experience.
- 5.59 **Sustainable Transport:** No objection
- 5.60 **Cycle Parking**
The applicant is providing 88 covered cycle parking spaces as part of this application. The majority of these (52 spaces) shall be located within a secure store and the remaining spaces (18 stands for 36 bikes) will be located within the under crofts of the north and south entrances; full details should be secured by condition. The applicant is also providing shower and changing facilities on the ground floor of the Life Sciences building which is welcomed.
- 5.61 **Disabled Parking**
The applicant is proposing 9 disabled car parking spaces as part of this specific planning application. These are located to the north west of the Life Sciences building. The bays are correctly designed in accordance with Traffic Advisory Leaflet 5/95 in that they have a 1.2m clear zone either side of each bay.
- 5.62 **Servicing and deliveries**
No objection is raised to the servicing arrangements, the majority of which will be undertaken from the service yard.
- 5.63 **Vehicular Access**
A new shared surface access route will be provided to the east of the proposed building that will link Science Park Road with the campus to the north. This route will be the main means of access the building by vehicle.
- 5.64 **Car Parking**
As part of these proposals it is intended to provide 9 disabled car parking spaces, no other car parking shall be retained as part of these proposals, within the red line boundary. As part of the wider masterplan for the campus additional car parking is proposed including the retention of 61 parking spaces on the Science Car Park which lie outside of this planning application red line boundary. The existing car parking to be removed within the Science Car Park (approx. 400 spaces) are to be relocated to alternative car parks on the periphery of the campus as part of the wider masterplan development. The

masterplan application proposes no additional parking on-site, other than 61 additional disabled car parking spaces; with the majority of car parking spaces displaced by development to be relocated elsewhere on the campus.

5.65 Trip Generation/Highway Impact

The proposals in terms of trip generation and the potential transport impact of the proposed development have already been considered and granted approval as part of the outline masterplan application (BH2013/03040) for the campus. The applicant is not proposing any increase in academic floor space above that approved as part of the masterplan application and the Highway Authority is also aware that as part of this application a legal agreement shall be entered into limiting the floor space to that approved as part of the masterplan application. Therefore these proposals are not considered to have a greater transport impact than that already approved as part of the outline masterplan application.

5.66 Travel Plan - Car parking levels across the campus will fluctuate up and down during the delivery of the masterplan, for which this development is part of. Therefore the Highway Authority would look for an updated Travel Plan to be produced prior to commencement of this development which details how car parking will be managed, both during and post construction.

5.67 In addition to car parking management the travel plan should also include but not be limited to:

- Measures to promote the sustainable travel to staff and students.
- Details of car park management.
- Details of delivery and servicing movements and how to reduce/consolidate these.

5.68 Arboricultural Services: Comment:

5.69 Summary:

The development will result in considerable tree losses from the site and reduced scope for replacement planting. Overall, the Arboricultural Section does not support the proposal but understand the difficulties in supporting a refusal. Should, the application be granted it is recommended that a condition is imposed to further support the Arboricultural consultants recommendations for protection of the retained trees.

5.70 Main comment:

The Arboricultural report submitted with the application is technically very good and the Arboricultural Section agrees with the majority its findings. It identifies both trees shown for removal in the master plan that are now to be retained under this planning application and trees shown for retention in the master plan now to be removed under this planning application. In summary, 6 additional trees shown for retention in the masterplan are now proposed for removal in this planning application together with a thicket of damson, sycamore and yew. Of these, 2 of the trees are category A trees with the remainder category B/C or below.

- 5.71 The proposed scheme will, result in the loss of two additional good quality trees (a beech and a sycamore) but allow for additional retention of a good quality copper beech and a group of sycamore.
- 5.72 Overall whilst the tree loss differences between the earlier agreed masterplan are not substantial, however, the overall loss in tree cover to this area is considerable. When this is coupled with the losses around the East Slope redevelopment a large mass of the wooded nature to this side of the valley will be lost.
- 5.73 **Sustainable Urban Drainage:** Comments awaited.

6. MATERIAL CONSIDERATIONS

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

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP2 Sustainable economic development
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design
- CP15 Heritage
- CP18 Healthy city
- DA3 Lewes Road

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

TR4 Travel plans
TR7 Safe Development
TR14 Cycle access and parking
SU3 Water resources and their quality
SU5 Surface water and foul sewerage disposal infrastructure
SU9 Pollution and nuisance control
SU10 Noise Nuisance
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species protection
QD27 Protection of amenity
HE3 Development affecting the setting of a listed building
HE6 Development within or affecting the setting of conservation areas
HE11 Historic park and gardens
HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

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

Developer Contributions Technical Guidance

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to design and impacts on heritage, sustainability, amenity and sustainable transport along with the impact on the outline approval (BH2013/04337) and associated masterplan.
- 8.2 **Planning Policy:**
The University campus falls within the DA3 Lewes Road area identified in the City Plan. The scheme is considered to be generally consistent with Local Priority 1 for the area and does not conflict with policy DA3 of the Adopted City Plan Part One.
- 8.3 The current proposal seeks to refurbish the existing Genome Centre (2,889sqm (GIA)) and construct a new Life Sciences Building (14,911sqm (GIA)) however this provision would not be in addition to the 43,034sqm of academic floorspace which has approval under the outline planning permission (BH2013/04337). The applicant has agreed to sign up to a Section 106 (S106) Agreement to maintain the current maximum of the previously approved level of academic floorspace within the masterplan area. As such the application does not raise any additional concerns in relation the impacts of this provision which were fully assessed under the approved outline (BH2013/04337).
- 8.4 Environmental Impact Assessment (EIA):

On the basis of the above and the fact the proposal is inextricably linked to the outline permission which constituted EIA development, the current scheme is being considered as an amendment to EIA development. The relevant information has been refreshed in the Environmental Statement (ES) and the combination of the originally submitted Environmental Statement (ES), the newly submitted ES addendum and the additional supporting information submitted with the current application (along with a legal agreement to restrict the amount of academic floor area, in line with the approved outline permission) sufficiently take account of all the potential environmental effects of the scheme.

8.5 Masterplan considerations, design and heritage impacts:

8.6 Masterplan implications:

The principle of new academic buildings on this site was established by the approved masterplan/outline application (BH2013/04337). The masterplan envisaged a pair of slim buildings located in an 'L' shape around a courtyard space, the current proposal clearly differs from this approach with a single larger building with a rectangle roof print. As noted by Heritage there is however no objection to this approach provided that the landscape courtyard is instead created to the north of the building (outside the current application boundary) as part of a future phase, as illustrated in the updated illustrative masterplan for the academic area as shown on drawing no. 331 revision D.

8.7 As part of the pre-application discussions and negotiation, the applicant was advised to consider how the illustrative masterplan approved under the outline would be impacted and updated to accommodate the new layout. As such a new illustrative masterplan has been submitted by the applicant which demonstrates how a landscape courtyard space could be accommodated within the wider layout to the north of the building, which is supported in principle and the detail of which would be agreed under later phases. The aforementioned S106 agreement to limit the amount of academic floorspace to the maximum level approved under the outline scheme would provide adequate security that this important landscape feature could be accommodated on the site. The updated illustrative masterplan also includes the amended academic floorspace quantum to clarify how the remaining buildings within this phase could be developed within the agreed parameter of 43,034sqm.

8.8 Heritage:

Heritage note that although the building would be large by the standards of the campus, second only perhaps to the Library. However, features such as the deeply recessed entrances to the north and south elevations, along with the four open courtyard spaces which pierce the building, which are a feature of the original Spence academic building and the internal street running through it would help to break up the bulk whilst maintaining a sympathetic interpretation of the original Spence academic buildings.

8.9 In addition, although the current maximum height of the building (measured to the top of the rooftop plant screen) is marginally (1.9m) over the approved parameter set out of this area of the campus masterplan, the screening is set back from the building edge and the maximum height of the main elevation of

the building is 0.5m below the approved parameter. Notwithstanding this, the proposed four storey building would sit comfortably within the topographical and built context, maintaining a comfortable 'stepping up the hill' in relation to neighbouring buildings. As demonstrated by the submitted views, the slightly greater overall height and massing of the building would not be particularly visible in key views from the historic core of the campus and trees would continue to over-top the development. The conclusion of the Heritage Statement is supported by Heritage and there will be no harmful impact on the setting of any of the listed buildings. In addition, there would be no impact on the setting of the Stanmer Conservation Area or on the Registered Park and Garden at Stanmer.

8.10 Design:

The proposed design of the building has been subject to extensive pre-application discussions and follows a careful analysis of the original Spence design concept by the applicant, as set out in the Design and Access Statement. As noted by Heritage the design is a clearly contemporary building of suitability high architectural quality but makes strong reference to Spence design concepts, motifs and materials in its form and elevational treatment in a contemporary and distinct manner.

8.11 In addition, the building would have the clear horizontality favoured by Spence but with a counterbalancing vertical rhythm provided by the scalloped brick columns and the series of colonnaded concrete fins above. The detail of the scalloped brickwork and mortar and how it relates to the original Spence buildings is of crucial importance and it is recommended that sample brickwork is submitted.

8.12 The faceted bronze-coloured metal screening to the roof top is considered to provide a suitable level of visual interest to its functional requirement. It is noted that Historic England are in general support of the scheme however raise concern regarding the rooftop plant and associated screen. The level of plant and proposed screen has been the subject of pre-application discussions and efforts have been made to keep the plant to a minimum and it is noted that the amount of plant cannot be reduced any further as the proposed uses require specialist facilities in order to function accordingly. As noted by Heritage, it is considered more appropriate to include screening for the plant as an integral element of the design. In the view from the Library steps in winter the upper part of the building, including the screening, would be visible through the tree branches but this is a distant view and the screening would be a recessive feature. Most importantly, the building would not over-sail the tree canopy in this view.

8.13 Notable consideration and effort has been focused on the plant screen and as supported by Heritage it is considered more appropriate to include screening for the plant as an integral element of the design than to have none or to retro-fit screening to parts of the building. In the view from the Library steps in winter the upper part of the building, including the screening, would be visible through the tree branches but this is a distant view and the screening would be a recessive feature. Most importantly, the building would not over-sail the tree canopy in this

view. It is also noted, that following the second Planning Committee Member's Pre-application presentations, in response to comments made by some members, the screen design was amended to introduce a faceted profile to the screen to soften the visual impact and provide an interpretation of the Spence vernacular which was supported by Heritage prior to submission of the application.

8.14 The proposed glazing manifestations illustrated in the Design and Access Statement are considered to add additional interest and some indication of the functions within the building and it is recommended that the final details is controlled by condition.

8.15 Public Realm and Landscaping:

The Design and Access Statement contains a robust landscape strategy with thorough analysis of the existing campus and comprehensive justification of the approach to the landscape design. Key objectives identified by the applicant include: improving the challenging levels of the site to increase ease of access for site users and setting levels that work with the future aspirations of the masterplan to increase accessibility across the campus generally. In addition, the proposal seeks to develop a scheme which responds positively to its campus setting whilst setting a precedent for the future developments to deliver the wider masterplan.

8.16 In relation to hard landscape features, the proposed extension to the monumental east-west steps up to the new building is welcomed and represents a typical Spence feature around. Subject to securing details by condition, as noted by Heritage, the approach to the public realm around the building is considered appropriate.

8.17 The proposed soft landscaping strategy has been designed to respond to its setting and includes native tree and shrub planting, grass banks, gabion terraces and graded lawns. The service yard landscaping has also been carefully considered to aim to reduce its visual appearance through the use of pre-grown climbing plants and green roofs. The research gardens/open courtyard spaces that will serve the building providing internal atria bringing light and greenery into the deep footplate of the structure have been designed to incorporate planting found naturally within the differing landscape of the South Downs National Park. The concepts illustrated in the submission are broadly supported however full details are recommended to be secured by condition.

8.18 Trees:

The Arboricultural Impact Assessment submitted with the application identifies the trees previously approved to be removed under the outline approval. Six additional trees are proposed to be removed under the current application. Four of the six trees to be lost are a category A beech tree, category A sycamore tree, category B/C sycamore tree and a category U dying larch, together with two yew trees growing in a thicket (category B/C) and a thicket of damson, sycamore and low quality yew (category C). The amended layout does however result in one good quality copper beech (category A) tree formally agreed to be lost under the outline approval can now be retained under the current

application along with a group of 6 Sycamore and associated vegetation, the majority of which can now be retained which are category B.

8.19 Reference is also made in the Arboricultural Impact Assessment to the mitigation of new native tree planting proposed as part of the development to compensate for the loss of the additional trees. Arboricultural Services agree with the majority of the findings within the assessment however regret the loss of the additional trees coupled with the agreed loss within the masterplan area.

8.20 Impact on Amenity:

The application site is located within the existing academic area of the campus and neighbouring non-university uses are therefore located some distance from the development and are therefore unlikely to be adversely affected by matters such as noise disturbance from the use. The proposal includes a significant level of roof top plant along with a large service yard containing varying forms of waste and chemical storage in order to adequately serve the functions with the building. However given the nature of the development and site characteristics, Environmental Health has determined it unnecessary to comment on the scheme.

8.21 Sustainable Transport:

As noted above the applicant has agreed to sign a S106 agreement to limit the amount of academic floorspace to that previously approved under the outline permission (BH2013/04337) and as such the wider transport implications remain the same as approved with no additional impacts identified.

8.22 The final detail of the proposed cycle parking is recommended to be secured by condition along with implementation of the disabled parking spaces prior to occupation of the building. A Construction Environmental Management Plan (CEMP) is also recommended to be secured on the basis of the scale of the development. The parking levels across the campus will fluctuate as the masterplan and subsequent applications are built out and as such and as recommended by the Highway Authority, an updated Travel Plan and including details on how car parking will be managed, both during and post construction is also recommended to be secured.

8.23 Sustainability:

A Sustainability Statement has been submitted with the application which includes a BREEAM pre-assessment demonstrating a pathway and commitment to achieving a BREEAM 'excellent' standard.

8.24 As noted by the Sustainability Officer, the proposals respond well to policy CP8 and policy for decentralised energy in DA3 Lewes Road which seek decentralised and renewable energy proposals integrated into schemes.

8.25 The low and zero carbon energy solutions proposed are to adopt district heating, air source heat pump and photovoltaics for the development. It is proposed that a site wide district heating infrastructure loop will be provided to the East of the campus from the existing system in time for the Life Sciences to connect to, for the heating and hot water for the building.

- 8.26 Conditions are recommended to ensure BREEAM 'excellent' is achieved along with details on decentralised energy proposals as set out in the Energy Strategy, confirming installation of the photovoltaic array, and connection to the site-wide district heating infrastructure is achieved.
- 8.27 **Ecology:**
As noted by the County Ecologist the soft landscape scheme outlined in the Design and Access Statement is supported. The proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective.
- 8.28 Surveys were carried out in accordance with best practice and are sufficient to inform appropriate mitigation, compensation and enhancement. The site is of relatively low ecological value and although no evidence of bats was found bar some potential within the group of mature trees to the south of the site and as such a precautionary approach to tree works is therefore recommended in accordance with the Bat Survey findings. The site is considered unlikely to support any other protected species and therefore no specific mitigation is required.
- 8.29 The enhancement opportunities identified as part of the scheme include the use of species of known value to wildlife within the landscape scheme, the provision of a biodiverse green roof and the provision of bat boxes. Species should be native and of local provenance where possible as recommended by the County Ecologist.
- 8.30 **Other Considerations:**
The site is within an Archaeological Notification Area, however the County Archaeologist does not believe that any significant below ground archaeological remains are likely to be affected by the proposal.
- 8.31 **Section 106 Legal Agreement:**
Public Art reasonably considered the application as a standalone planning application, however on the basis that the applicant is willing to enter into a legal agreement limiting the floor area to that approved under the outline scheme; it is not considered reasonable to secure the additional contribution of £37,000 under the current scheme. This matter was given consideration under the outline scheme and a contribution secured via S106 agreement; the policy position has not altered since that time.
- 8.32 Since consideration of the outline application (BH2013/04337) the Developers Contribution Technical Guidance has been updated and financial contributions are now being sought for the Local Employment Scheme as set out in City Regenerations comments totalling £149,100 which is recommended to be secured via S106 Agreement along with securing a minimum of 20% local employment during the demolition/construction phase.

8.33 Heads of Terms:

Academic floor area restriction:

- Restriction of the academic floor area to a total of 43,034sqm within the approved masterplan area as approved under BH2013/04337.
- Local Employment Scheme:
- Securing a minimum of 20% local employment during the demolition/construction phase along with a financial contribution of £149,100.
- Produce a Travel Plan and car parking management plan
- In addition to car parking management the travel plan should also include but not be limited to:
 - Measures to promote the sustainable travel to staff and students.
 - Details of car park management.
 - Details of delivery and servicing movements and how to reduce/consolidate these.

8.35 Construction Environmental Management Plan:

To include the following required by the Environment Agency:

- Information on the demolition and construction design;
- Management of pollution during construction
- The storage of plant and materials used in constructing the development; and
- Wheel washing facilities;

9. EQUALITIES

- 9.1 The site has very challenging level changes and the development has been designed with the aim of addressing long-standing accessibility issues that exist on campus due to the valley context. It has been designed to meet Part M of the Building Regulations and level thresholds will be provided at entrances/exits to the building which will provide accessible routes through this part of the campus where they cannot be provided externally.

ITEM B

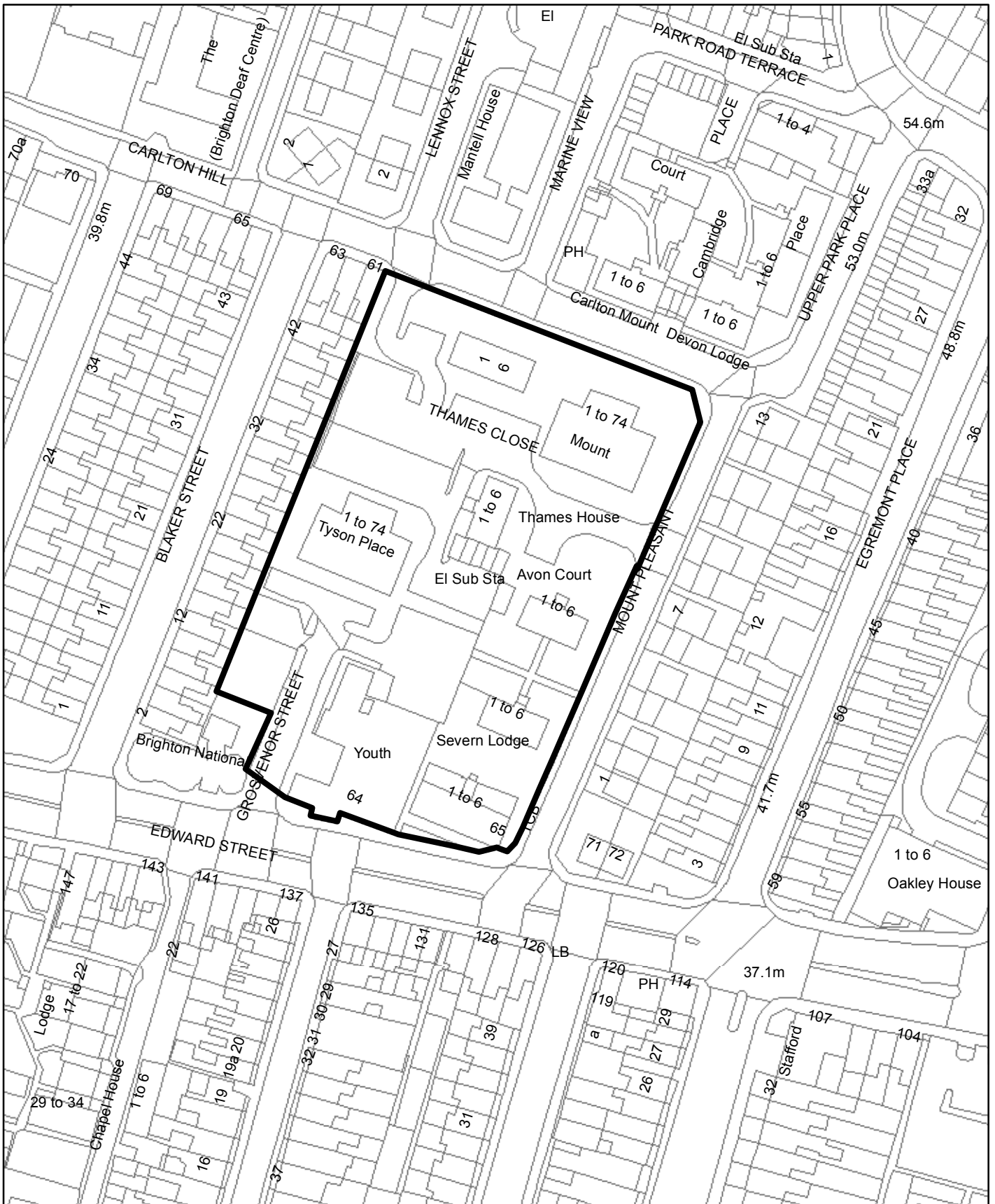
Tyson Place & St John's Mount, Brighton

BH2016/05563

Full Planning

DATE OF COMMITTEE: 8th Feb 2017

BH2016/05563 Tyson Place and St Johns Mount, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

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

Following the deferral of the application at the meeting on 11/01/2017 additional information has been supplied by the applicant which details why external insulation is favoured over internal insulation and responds to concerns on the potential for staining.

1. RECOMMENDATION

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

Conditions:

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

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

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

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

- 3 No development shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including

- a) Samples of all cladding to be used, including details of their treatment to protect against weathering

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

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

Informatives:

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

2. SITE LOCATION & APPLICATION DESCRIPTION

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

- 2.5 The proposed scheme is to install 20mm deep Bostik Climatherm render system (EWI) (giving an overall thickness of approximately 120mm) in an off-white colour to all elevations from first floor level of both Tyson House and St. Johns Mount. A 25 year guarantee would be provided for the render. The existing balconies would not be rendered but the balcony handrails would be repainted.
- 2.6 The windows and external doors to both blocks would be replaced with white uPVC units. The units would be of similar style and operation to the existing arrangement
- 2.7 New roof covering and insulation would also be installed on St Johns Mount. The new roof covering would also be subject to a 25 year guarantee.
- 2.8 The roof and balcony cast iron drainage downpipes would be boxed in where running through individual flat balconies.
- 2.9 General external concrete, render and pointing repairs would also be completed along with external decorations to previously painted surfaces.

3. RELEVANT HISTORY

BH2005/05676 - St. Johns Mount

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

BH2002/00129/FP - St. Johns Mount

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

BH2000/03259/TA - Tyson Place

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

BH1999/01427/FP - Tyson Place

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

4. REPRESENTATIONS

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

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

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

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

5. CONSULTATIONS

5.1 Heritage: No objection

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

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

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

6. MATERIAL CONSIDERATIONS

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

6.2 The development plan is:

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

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

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

DA5 Eastern Road and Edward Street Area

CP8 Sustainable buildings

CP12 Urban design

CP15 Heritage

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

QD5 Design - street frontages

QD14 Extensions and alterations

QD27 Protection of amenity

HE3 Development affecting the setting of a listed building

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

8. CONSIDERATIONS & ASSESSMENT

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

8.2 Design and Appearance

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

8.3 The proposed scheme is to install 20mm deep Bostik Climatherm render system (EWI) in an off-white colour to all elevations from first floor level of both Tyson House and St. Johns Mount (the render is 20mm but the overall thickness will be approximately 120mm – this will be confirmed at final design stage). The existing balconies would not be rendered and would retain the facing brickwork. The windows and external doors to both blocks would be replaced with white uPVC units of a similar style and operation to the existing arrangement. New roof covering and insulation would be installed on St Johns Mount. Repairs of the external concrete render and pointing would be undertaken along redecoration of previously painted surfaces, and other minor alterations.

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

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

- 8.13 The sustainability improvements are generally welcomed are in accordance with Policies SS1 and CP8 of the Brighton and Hove City Plan.
- 8.14 On balance, it is considered that the benefits of the proposed scheme in terms of improved appearance of the blocks in the wider vicinity and near-by conservation areas, and the improved sustainability and thermal efficiency of the blocks outweigh the harm caused by the potential deterioration of the rendering as this can be overcome with a regular maintenance schedule.
- 8.15 **Impact on Amenity:**
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.16 A number of objections have been raised in relation to the proposed development. The practical implications of the proposed works have been raised as concerns (e.g. potential for increased temperatures indoors in the warmer months, and potential damage to the bricks due to lack of air). These concerns are noted, it is however considered that the products have been duly tested and certified for use on these types of properties.
- 8.17 Other matters raised include the disruption which would be caused during construction works and the cost of the works to those who have a leaseholder ownership of a flat within the development. The cost of the works is not a material planning consideration. As with all development disturbance would be caused during construction works; this is not material to the determination of this application.
- 8.18 It is therefore concluded that any potential harm to amenity for residents of the blocks would not be of a magnitude which would warrant the refusal of planning permission.

9. EQUALITIES

- 9.1 None identified.

ITEM C

23A Third Avenue, Hove

BH2016/05687

Full Planning

DATE OF COMMITTEE: 8th Feb 2017



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/05687	<u>Ward:</u>	Central Hove Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	23A Third Avenue Hove BN3 2PB		
<u>Proposal:</u>	Conversion of existing garage into (B1) office space with erection of a single storey rear extension, front extension and associated alterations.		
<u>Officer:</u>	Joanne Doyle, tel: 292198	<u>Valid Date:</u>	14.10.2016
<u>Con Area:</u>	The Avenues	<u>Expiry Date:</u>	09.12.2016
		<u>EoT/PPA Date</u>	
<u>Listed Building Grade:</u>			
<u>Agent:</u>	Mr Gregory Kewish, Kit Cottage, Upton Cross, Liskeard, PL145AZ		
<u>Applicant:</u>	Ms Louise Everington, 4 Hove Park Way		

1. RECOMMENDATION

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

Conditions:

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

Plan Type	Reference	Version	Date Received
Location and block plan	PL 000	-	14 October 2016
Floor plans and elevations proposed	PL 002 (ROOF PLAN _SECTION)	-	14 October 2016

- 2 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.

- 3 The premises shall be used as an office (Use Class B1(a)) only and for no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). 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 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 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 site relates to a two storey detached property, located on the east side of Third Avenue. The property features an integral garage and driveway. The property lies within The Avenues Conservation Area.
- 2.2 The application proposes the conversion of the garage into B1 office space and the erection of a single storey rear extension, front extension and associated alterations.

3. RELEVANT HISTORY

BH2016/01519- Conversion of existing garage into 1no studio flat (C3) with erection of a single storey rear extension, front extension and associated alterations. Refused on 08.07.2016.

The reasons for the refusal were as follows:

- The proposed residential unit, by virtue of its sole outlook onto a vehicle parking area, would result in oppressive and unduly enclosed living conditions for future occupiers and an unacceptable standard of residential accommodation, contrary to policy QD27 of the Brighton & Hove Local Plan.
- The proposal residential use of the garage would introduce an intensity of use and activity, including associated domestic paraphernalia onto the front driveway, out of keeping with and detracting from the appearance of the building, street and Avenues Conservation Area, contrary to policy HE6 of the Brighton & Hove Local Plan. Furthermore, such activity within the front driveway would detrimentally impact on the amenities of adjacent occupiers

within the building by way of loss of privacy and noise disturbance, contrary to policy QD27 of the Brighton & Hove Local Plan.

- The proposed number of high level windows to the rear extension directly abutting a private garden represents an unneighbourly arrangement that would result in noise and light disturbance to the adjacent occupiers, contrary to policy QD27 of the Brighton & Hove Local Plan.

BH2015/04075 - Conversion of existing garage into 1no studio flat (C3).
Refused on 06.01.2016.

The reasons for the refusal were as follows:

- The proposed residential unit, by virtue of its restricted light and its outlook through folding doors onto a vehicle parking area, would result in oppressive and unduly enclosed living conditions for future occupiers and an unacceptable standard of residential accommodation, contrary to policy QD27 of the Brighton & Hove Local Plan.
- The proposal residential use of the garage would introduce an intensity of use and activity, including associated domestic paraphernalia onto the front driveway, out of keeping with and detracting from the appearance of the building, street and Avenues Conservation Area, contrary to policy HE6 of the Brighton & Hove Local Plan. Furthermore, such activity within the front driveway would detrimentally impact on the amenities of adjacent occupiers within the building by way of loss of privacy and noise disturbance, contrary to policy QD27 of the Brighton & Hove Local Plan.

Appeal dismissed on 08.07.2016.

BH2015/01764 - Conversion of existing garage into 1no studio flat (C3).
Refused on 03.09.2015.

The reasons for the refusal were as follows:

- The proposed residential unit, by virtue of its cramped internal space, low levels of natural light and restricted outlook would result in oppressive living conditions for future occupiers and an unacceptable standard of residential accommodation. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.
- The proposal residential unit and the associated external amenity area would be sited in close proximity to habitable windows within the north facing side elevation of Flat 1, 23 Third Avenue and would result in a significant loss of privacy and increased noise and disturbance to this property. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.

4. REPRESENTATIONS

4.1 One (1) letter of representation has been received from Flat 3 22 Third Avenue commenting that:

- The development is for riches rather than the greater good.

- The premises could be used for unsolicited uses.
- Solicitors etc should be out of town on industrial sites given the housing shortage.

4.2 Five (7) letters of representation have been received from Flat 1 23 Third Avenue (2 letters), Flat 2 23 Third Avenue, Flat 3 23 Third Avenue (2 letters), Flat 4 24 Third Avenue, 25 Third Avenue objecting to the proposal for the following reasons:

- The use of the garage as an office could result in noise nuisance and disturbance.
- The use would increase footfall to the property.
- The commercial use is inappropriate in a residential area.
- Result in loss of privacy.
- Result in loss of light.
- Rubbish disposal would result nuisance.
- Building works would cause noise and dirt.
- The design would have a poor visual relationship with the building and is out of keeping with other properties.

4.3 Councillor Andrew Wealls objects to the application and has requested that the application goes to Committee if the recommendation is to approve (comments attached).

5. CONSULTATIONS

5.1 **City Regeneration:** No objection

Support the potential prospect of business expansion.

5.2 **Policy:** No objection

The proposal to convert the garage to a B1 office is considered welcome in planning policy terms and complies with policies in the Local Plan and City Plan Part One.

5.3 **Transport Planning:** No objection

Change of use

The change of use of a garage to an office space may generate additional trips to the site, however for this size proposed the increase is unlikely to be significant enough to warrant a recommendation for refusal. In this instance the Highway Authority does not wish to request developer contributions.

Loss of garage

The Highway Authority has no objection to the loss of the garage as there is adequate space for parking on the driveway. It is also unclear if the garage at present is used for the storage of motor vehicles.

Cycle storage

There is adequate space in the storage room at the rear of the office for cycles as required by Parking Standards SPD14.

6. MATERIAL CONSIDERATIONS

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

6.2 The development plan is:

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

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

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP8 Sustainable Buildings

CP9 Sustainable Transport

CP12 Urban Design

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

TR7 Safe development

TR14 Cycle access and parking

QD14 Extensions and alterations

QD27 Protection of Amenity

EM4 New business and industrial uses on unidentified sites

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD08 Sustainable Building Design

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 principle of the conversion, the impact of the conversion on the appearance of the property and The Avenues conservation area, the amenities of adjacent occupiers and transport issues.

8.2 **Principle of development:**

Planning permission is sought for the conversion of the garage into office space (B1). Local Plan policy EM4 states that planning permission will be granted for new businesses and industrial uses on unidentified sites provided that the criteria are met:

- a) There is a demonstrable need for such a use, given the availability of existing land or premises identified in the plan or on the market or with outstanding planning permission:

No evidence has been submitted from the applicant regarding this criterion. However, policy EM4 specifically states that planning permission will be granted for new sites which have not been identified in the Plan (windfall sites) that are suitable for new business premises. The submitted information indicates that the office would be used as an accountants for office work purposes and would be occupied by two members of staff during business hours. The application site is clearly a windfall site that has not been identified as an employment site within the Plan. It is considered that the site is suitable as a new business premise, in accordance with Local Plan Policy EM4. The suitability of the site is considered below.

- b) The site is readily accessible by public transport, walking and cycling:

The site is within the easy walking distance of numerous bus stops on Church Road and is easily accessible. There is adequate space in the storage room at the rear of the office for cycle storage.

- c) The development would not result in the net loss of residential accommodation:

The proposal does not result in the loss of habitable space.

- d) The development would not result in the loss of an important open space, an identified Greenway or a nature conservation site as specified in the Plan:

The site is not located within these areas.

- e) The development would not have a demonstrably adverse environmental impact because of increased traffic and noise:

The conversion to office space may generate additional trips to the site; however the increase is unlikely to have a significant impact on the highway. The level of car parking provision remains as existing and therefore the conversion would not result in an adverse noise or environmental impact.

- f) The development would not be detrimental to the amenities of occupiers of nearby properties or the general character of the area:

The impact on amenity is considered later in the report.

g) There is adequate landscaped amenity open space:

The site does not lend itself to soft landscaping; however there is considered to be sufficient space within the front driveway to provide amenity space for an office use. It is not considered that this lack of landscaped amenity open space would warrant refusal of the application.

On balance it is considered that the criteria set out in policy EM4 are substantially met.

8.3 Design and Appearance:

The streetscene is characterised by large detached dwellings with recessed two storey garage wings to the side and driveways to the front. This arrangement forms a clear rhythm to this part of the street and has a positive impact on the conservation area.

8.4 The extensions proposed are similar to those in the previous application, with changes to the roof and elevations of the rear extension.

8.5 The garage would be extended forward by 0.5m at a height of 3.2m. This projection would be somewhat out of character with the building, however given its recessed position within the street and the retention of the garage door detailing, no significant harm is identified.

8.6 The outbuilding to the rear of the garage would be substantially rebuilt, becoming a rear extension and infilling the space of the rear garden. The rear extension to the garage would be have broadly the same impact as the existing extension and outbuilding and therefore is not considered to harm the appearance of the property or wider conservation area.

8.7 The proposed rooflights to the rear extension are considered to be suitable additions in terms of design and scale.

8.8 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.

8.9 The proposed B1 use is by definition one that can be carried out in a residential area without detriment to the amenity of that area. Whilst it is noted that the only available amenity space would be the front driveway, it is considered that the use of this space in connection with an office use would not be so intensive as to have an adverse impact on the adjacent ground floor flat in comparison to a residential use. There is no increase in parking provision and therefore there would be no additional disturbance by reason of vehicle movements. It is recommended that the use of the premises is restricted by condition to B1a use only.

- 8.10 The proposed front extension would directly abut a kitchen window to the adjacent ground floor flat. Whilst this would have a more enclosing impact than the existing arrangement, on balance it is not considered that this arrangement would result in overshadowing, loss of outlook, loss of light or privacy.
- 8.11 The proposed rear extension would be broadly the same scale and impact as the existing arrangement and therefore would not result in overshadowing, loss of outlook, loss of light or privacy.
- 8.12 Due to the nature and position of the rear rooflights it is not considered that their insertion would impact neighbouring amenity.
- 8.13 **Transport Planning:**
There is not forecast to be a significant increase in vehicle trip generation as a result of the conversion. There is no objection to the loss of the garage as there is adequate space for parking on the driveway. There is adequate space in the storage room at the rear of the offices for cycle parking, a condition will be attached for details of this.

9. EQUALITIES

- 9.1 None identified.

Daniel Cull

From: noreply@brighton-hove.gov.uk
Sent: 07 November 2016 12:17
To: Planning Comments
Subject: Planning Application BH2016/05687 - comment 1054559

Planning Application - BH2016/05687

Comment reference number: 1054559

I object to the Planning Application

Sender's details

Councillor Andrew Wealls
18 Palmeira Avenue, Hove,
BN3 3GB

Comment

Please note my objection to this application to for change of use at 23A Third Avenue, Hove to B1 use. Whilst the application is clear that the envisaged use of the premises would be for an accountancy practice with two staff on site, B1 use is defined as 'B1 Business - Offices (other than those that fall within A2), research and development of products and processes, light industry appropriate in a residential area.' Source: Planningportal.co.uk. Given the extremely close proximity of family residential accommodation to these premises (above and to the south, immediately adjoining the premises), B1 use is considered highly inappropriate for this site. The area in which the premises are situated is a residential area, with business accommodation provided in sufficient quantity on nearby Church Road. This is not an area designated for employment use in the City Plan. Neighbouring residents are concerned about noise from employment activity at the site. There is no opportunity for ventilation from the toilet at the rear of the building so it is assumed an extractor fan will be required which will create noise disturbance for neighbouring residents. Similarly, it is unclear whether the front windows will be able to be opened. Should that be the case it is likely that noise (such as radio use), would disturb neighbouring properties. The front elevation is to be extended 400mm, which will reduce light to the kitchen window of the adjoining property. It is unclear why a 400mm extension is required at all, other than the existing space is not sufficient to accommodate 2 employees. This extension is highly disturbing to the residents of the adjoining property. The proposed plans show refuse storage to be between the windows of the adjoining property. As the proposal is for conversion to business premises, a separate waste disposal contract will be required with a commercial waste and recycling company. The business will not be eligible to use Cityclean communal facilities. Therefore external waste storage will be required as outlined. This will have a detrimental impact on the visual amenity of adjoining properties. Should officers be minded to approve this application, I formally request that it is considered by Planning Committee. Yours faithfully, Councillor Andrew Wealls

Notice to recipient:

The information contained in this electronic mail message is intended only for the use of the individual to whom it is addressed and may contain information which is privileged and confidential, the disclosure of which is prohibited by law.

ITEM D

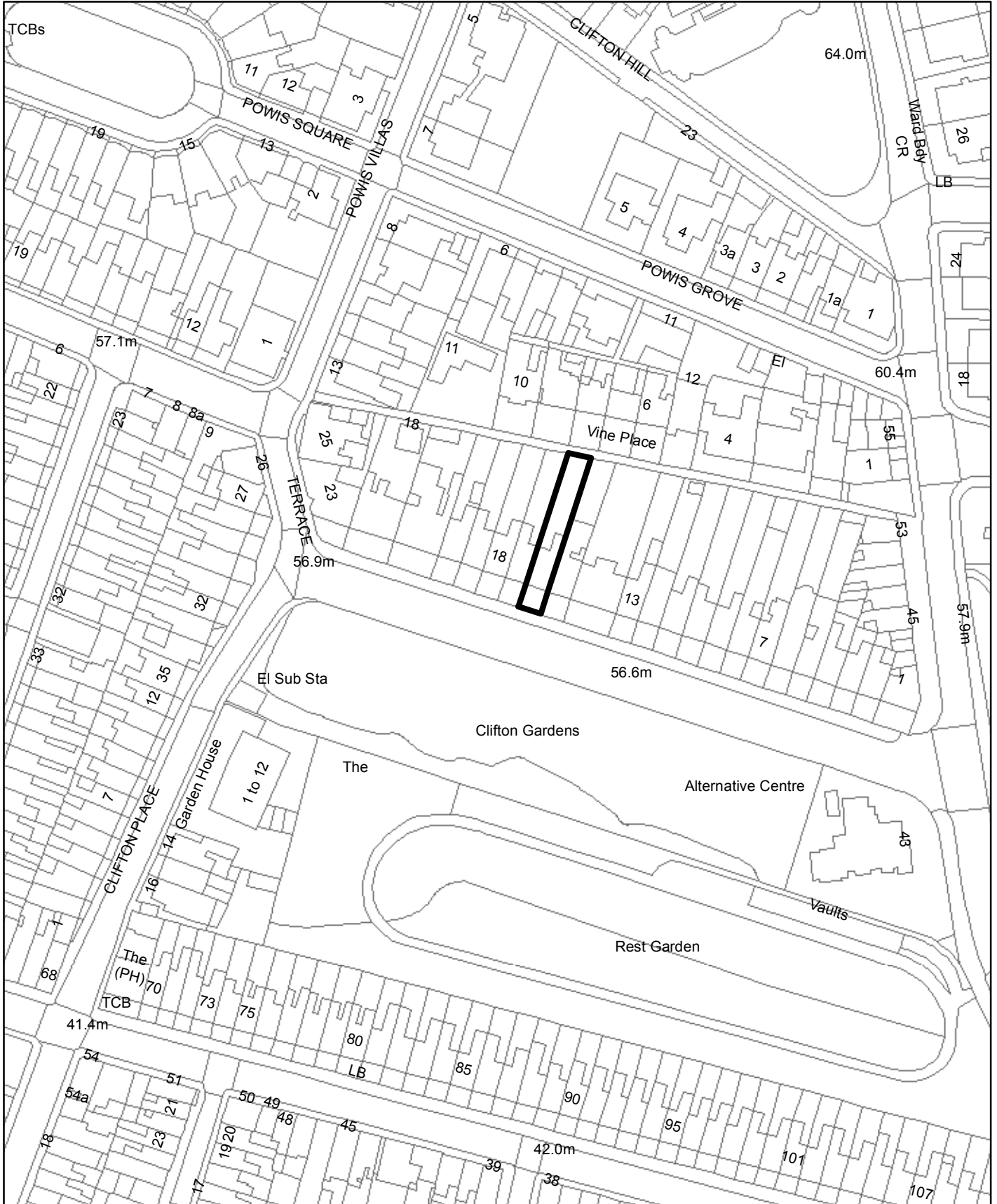
16 Clifton Terrace, Brighton

BH2016/06433

Householder Planning Consent

DATE OF COMMITTEE: 8th Feb 2017

BH2016/06433 16 Clifton Terrace, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/06433	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Householder Planning Consent		
<u>Address:</u>	16 Clifton Terrace Brighton BN1 3HA		
<u>Proposal:</u>	Demolition of existing rear conservatory and erection of two storey rear extension, insertion of windows to front elevation, landscaping and other associated works.		
<u>Officer:</u>	Helen Hobbs, tel: 293335	<u>Valid Date:</u>	13.12.2016
<u>Con Area:</u>	Montpelier and Clifton Hill	<u>Expiry Date:</u>	07.02.2017
		<u>EoT/PPA Date</u>	
<u>Listed Building Grade:</u>	Listed Building Grade II		
<u>Agent:</u>	Mr Daniel Hernandez, 128 Edward Street, Brighton, BN2 0JL		
<u>Applicant:</u>	Sue Baxter, 16 Clifton Terrace, Brighton, BN1 3HA		

This proposal is being determined by Planning Committee as it is an officer linked application.

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 the receipt of no representations raising additional material considerations with the re-consultation period and the following Conditions and Informatives:

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Floor plans/elevations/sect proposed	469/200	A	23 January 2017
Floor plans and elevations proposed	469/201	A	23 January 2017
Floor plans/elevations/sect proposed	469/202	A	23 January 2017
Sections Proposed	469/203		13 December 2016
Elevations Proposed	469/204	A	23 January 2017

- 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 external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
Reason: To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

- 4 No works shall take place until full details of all new sash window(s) and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections have been submitted to and approved in writing by the Local Planning Authority. The windows shall be painted timber double hung vertical sliding sashes with concealed trickle vents. The works shall be carried out and completed fully in accordance with the approved details and retained as such thereafter.
Reason: In the interests of the character and appearance of the building(s) and the visual amenities of the area and to comply with policies HE6 of the Brighton & Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

- 5 The rooflight hereby approved shall 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 Brighton and Hove City Plan Part One.

Informatives:

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

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to a mid-terrace Grade II listed Building, located within the Montpelier and Clifton Hill Conservation Area. The property is four storeys, with a basement and similar to the other dwellings in the terrace, accommodation has been created in the attic storey with a front dormer dating from 1920's. The building is still in use as a single house. At the rear is the original outrigger and the interior largely retains its original plan form and historic features.

- 2.2 The Terrace forms one of the major architectural set pieces within the Montpelier and Clifton Hill Conservation Area.

- 2.3 The application seeks permission for the demolition of a non-original conservatory and erection of a two storey mono-pitched extension to the rear outrigger and a number of external alterations. The proposal also includes alterations to the internal layout of the building.

3. RELEVANT HISTORY

BH2016/06434 Listed Building Consent. Demolition of existing rear conservatory and erection of two storey rear extension, insertion of windows to front elevation, internal alterations to layout, landscaping and other associated works. Under Consideration.

4. REPRESENTATIONS

None received.

5. CONSULTATIONS

5.1 Heritage: Comment

Statement of Significance

Number 16 Clifton Terrace is a grade II listed building, listed as part of numbers 1-23, being stucco terraced houses of c1850, They are treated as broad double-fronted villas with ground floor verandas, but in terraced form, two storeys but rising to three storeys at the central block. The south-facing terrace sits imposingly on a raised pavement that overlooks private gardens on the south side of the road. Number 16 is just to the left (west) of the central block and like the other two storey houses now has an attic storey, with a tripartite front dormer dating from the 1920s. At the rear is the original outrigger whilst the interior largely retains its original plan form but has most of its historic features. This plan form is part of the building's significance.

- 5.2 The terrace is one of the formal set-piece developments within the Montpelier and Clifton Hill conservation area, which is a predominantly residential area that was developed from the 1830s and is a mix of well-to-do streets of detached and semi-detached villas, set-piece developments of grand townhouses and narrower streets of smaller terraced houses; it is notable for its hilly siting and this part of the conservation area lies on a south-facing slope.

5.3 Relevant Design & Conservation Policies and Documents

The NPPF and NPPG. Historic England GPA Note 2. City Plan Part One policy CP15. Local Plan policies HE1, HE4 and HE6. SPD09 on Architectural Features. SPGBH11 on Listed Building Interiors.

5.4 The Proposal and Potential Impacts

Externally the main alteration is the demolition of the conservatory and erection of a two storey rear extension. The removal of the conservatory is welcome and, given the length of the rear garden, there is no objection in principle to an extension here. However, the proposal would be clearly wider than the existing outrigger and, of greater concern; its pitched roof with central ridge would sit awkwardly next to the monopitch roof of the original outrigger. The proposal is

- 5.5 therefore considered to be harmful to the listed building and the existence of a large extension to the neighbouring property should not be regarded as an appropriate precedent. Any new extension should be ideally be no wider than the outrigger but should certainly have a monopitch roof of the same pitch (though this could be set slightly lower).
- 5.6 There is no objection to the insertion of flanking windows to the basement canted bay; there is currently no uniformity to the terrace in this respect and such an arrangement is common to the period. There is also no objection to the excavation of a larger front lightwell given that the front garden seems to have been much altered in the 20th century. However, the relocated steps would have the first tread encroaching onto the front path, which is a wholly non-traditional arrangement.
- 5.7 It is recognised and acknowledged that there are some benefits to the proposals, such as the reinstatement of some sash windows, replacement of rainwater goods in cast iron, the removal of a suspended ceiling to the first floor stair landing, the removal of false arches either side of the chimney breasts, and the reinstatement of more appropriate internal doors. But these are not considered to be sufficient to outweigh the various harmful works, both internal and external, identified above.
- 5.8 Further Comment The revised drawings satisfactorily address all of the previous concerns. Externally the revised rear extension now sits much more comfortably with the existing outrigger and maintains the historic character of the rear elevations.

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

CP12 Urban design

CP15 Heritage

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

QD14 Extensions and alterations

QD27 Protection of amenity

HE1 Listed buildings

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD09 Architectural Features

SPD12 Design Guide for Extensions and Alterations

8. **CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the impacts of the development on the historic character and appearance of the Grade II Listed Building, streetscene and the surrounding Conservation Area as well as the impact on neighbouring amenity.

8.2 **Design and Appearance:**

The proposed rear extension would adjoin the existing outrigger measuring 3.6 depth and 3.7 in width and replaces a non-original conservatory that currently detracts from the historic character of the property. The extension itself would be approximately 0.8m wider than the outrigger, however amendments have been submitted revising the roof form to a mono-pitch roof that would be slightly set down from the existing ridge of the outrigger and continue the roofslope on a matching pitch. The significant improvement to the roof form ensures that although the footprint of the extension is wider than the outrigger, the addition would still appear subservient and would not form an overly dominant feature to the rear of the building.

8.3 In terms of the detailing of the extension, the materials and appearance would closely match the main building. Traditional sash windows would be installed on the side wall of the extension along with two additional sash windows on the flank wall of the existing outrigger. At the rear, the ground floor window would be a larger opening, and similar in design and proportions to the existing front first floor window. A conservation style rooflight would be installed within the slope of the existing roof serving the proposed ensuite bathroom.

8.4 At the front, the main external alterations include the insertion of flanking windows to the basement canted bay. There is currently no uniformity to the terrace in this respect and such an arrangement is common to the period. There is also no objection to the excavation of a larger front lightwell, and it is noted that this area has already been significantly altered.

- 8.5 The proposals also include reinstatement of non-traditional windows and the replacement of rainwater goods in cast iron. These alterations are welcomed and would restore some of the historic character.
- 8.6 It is therefore considered that the proposed works would not result in any significant harm to the historic character and appearance of the listed building, the terrace or the surrounding conservation area.
- 8.7 **Impact on Amenity:**
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.8 The proposed rear extension would be sited alongside the extensive rear extension at No. 15 Clifton Terrace, to the east of the site. Whilst the party wall would be raised in height, the two extensions would have a similar depth and therefore the proposal would not result in a significant impact.
- 8.9 To the west, there is sufficient separation from No. 17 for the bulk of the extension to not result in significant harm. The additional windows to be inserted at first floor level within the extension and the flank wall of the existing outrigger would not look directly into neighbouring windows and would not compromise the privacy of the adjoining occupiers.
9. **EQUALITIES**
None identified.

ITEM E

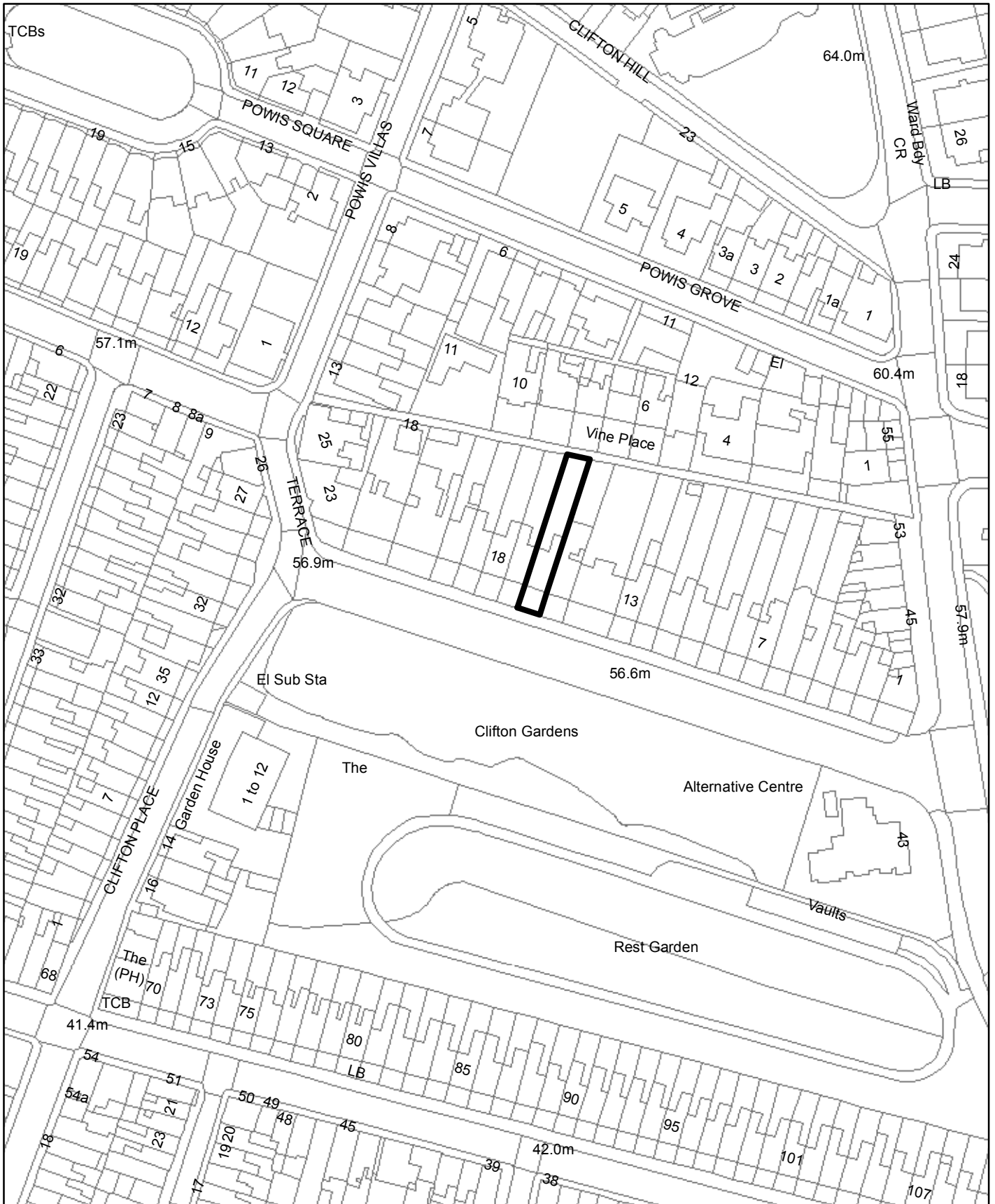
16 Clifton Terrace, Brighton

BH2016/06434

Listed Building Consent

DATE OF COMMITTEE: 8th Feb 2017

BH2016/06433 16 Clifton Terrace, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/06434	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Listed Building Consent		
<u>Address:</u>	16 Clifton Terrace Brighton BN1 3HA		
<u>Proposal:</u>	Demolition of existing rear conservatory and erection of two storey rear extension, insertion of windows to front elevation, internal alterations to layout, landscaping and other associated works.		
<u>Officer:</u>	Helen Hobbs, tel: 293335	<u>Valid Date:</u>	13.12.2016
<u>Con Area:</u>	Montpelier and Clifton Hill	<u>Expiry Date:</u>	07.02.2017
<u>Listed Building Grade:</u>	Listed Building Grade II		
<u>Agent:</u>	Mr Daniel Hernandez, 128 Edward Street, Brighton BN2 0JL		
<u>Applicant:</u>	Sue Baxter, 16 Clifton Terrace, Brighton, BN1 3HA		

This proposal is being determined by Planning Committee as it is an officer linked application.

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** Listed Building Consent subject to the receipt of no representations raising additional material considerations within the re-consultation period and 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 The external finishes of the works hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.
Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.
 - 3 No works shall take place until full details of all new sash window(s) and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections have been submitted to and approved in writing by the Local Planning Authority. The windows shall be painted timber double hung vertical sliding sashes with concealed trickle vents. The works shall be carried out and completed fully in accordance with the approved details and retained as such thereafter.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

- 4 No works shall take place until full details of the proposed works to the basement staircase including 1:20 scale sample elevations have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

- 5 All existing doors are to be retained, except where indicated on the drawings hereby approved. Any new doors shall be of timber construction with recessed panels and be of a specified size and design as agreed in writing by the Local Planning Authority prior to commencement of work. Any fireproofing to doors should be an integral part of the door construction, and self-closing mechanisms, if required, shall be of the concealed mortice type.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

- 6 The rooflight hereby approved shall 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 the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

Informatives:

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

Plan Type	Reference	Version	Date Received
Floor plans/elevations/sect proposed	469/200	A	23 January 2017
Floor plans and elevations proposed	469/201	A	23 January 2017
Floor plans/elevations/sect proposed	469/202	A	23 January 2017
Sections Proposed	469/203		13 December 2016
Elevations Proposed	469/204	A	23 January 2017

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to a mid-terrace Grade II listed Building, located within the Montpelier and Clifton Hill Conservation Area. The property is four storeys, with a basement and similar to the other dwellings in the terrace,

accommodation has been created in the attic storey with a front dormer dating from 1920's. The building is still in use as a single house. At the rear is the original outrigger and the interior largely retains its original plan form and historic features.

- 2.2 The Terrace forms one of the major architectural set pieces within the Montpelier and Clifton Hill Conservation Area.
- 2.3 The application seeks permission for the demolition of a non-original conservatory and erection of a two storey mono-pitched extension to the rear outrigger and a number of external alterations. The proposal also includes alterations to the internal layout of the building.

3. RELEVANT HISTORY

BH2016/06433 Full Planning - Demolition of existing rear conservatory and erection of two storey rear extension, insertion of windows to front elevation, landscaping and other associated works. Under Consideration.

4. REPRESENTATIONS

None received.

5. CONSULTATIONS

5.1 Heritage: Comment

Statement of Significance

Number 16 Clifton Terrace is a grade II listed building, listed as part of numbers 1-23, being stucco terraced houses of c1850, They are treated as broad double-fronted villas with ground floor verandas, but in terraced form, two storeys but rising to three storeys at the central block. The south-facing terrace sits imposingly on a raised pavement that overlooks private gardens on the south side of the road. Number 16 is just to the left (west) of the central block and like the other two storey houses now has an attic storey, with a tripartite front dormer dating from the 1920s. At the rear is the original outrigger whilst the interior largely retains its original plan form but has most of its historic features. This plan form is part of the building's significance.

- 5.2 The terrace is one of the formal set-piece developments within the Montpelier and Clifton Hill conservation area, which is a predominantly residential area that was developed from the 1830s and is a mix of well-to-do streets of detached and semi-detached villas, set-piece developments of grand townhouses and narrower streets of smaller terraced houses; it is notable for its hilly siting and this part of the conservation area lies on a south-facing slope.

5.3 Relevant Design & Conservation Policies and Documents

The NPPF and NPPG. Historic England GPA Note 2. City Plan Part One policy CP15. Local Plan policies HE1, HE4 and HE6. SPD09 on Architectural Features. SPGBH11 on Listed Building Interiors.

- 5.4 The Proposal and Potential Impacts
Internally, the proposals involve significant opening up of the original plan form at basement level, including the loss of the partition wall between the hall and the front room, the formation of an opening between the front and rear rooms and the opening up of the wall dividing the rear room from the outrigger. SPGBH11 states that "the complete or substantial removal of original walls will not normally be acceptable and the creation of large open plan spaces will be considered wholly inappropriate".
- 5.5 Cumulatively these alterations are considered to run counter to this guidance and to harm the original plan form and interior character. The existing modern stair up to the ground floor is proposed to be replaced; the new stair would replicate the modern dog leg return of the existing and would inappropriately replicate the turned balusters of the main staircase, rather than reinstating a traditional plain stair, whilst the original hall doorway would be blocked up. The widening of the front chimney breast opening to accommodate a kitchen range would involve the loss of original fabric and proportions but this may be acceptable if other concerns are resolved.
- 5.6 To overcome these concerns it is suggested that sections of wall are retained at either end of the partition wall between the front room and hall (indeed this may be necessary for structural reasons as these walls can have a loadbearing function). A greater section of wall should also be retained between the rear room and the outrigger (at least an additional 300mm). This approach is recommended is indeed recommended by in the submitted Heritage Statement. Given that the existing stair is not historic there is no objection to a new dog leg stair in principle but it should either be in wholly contemporary form or should be in traditional form but respect the traditional building hierarchy by having plain square balusters. The existing hall doorway can be blocked up but the evidence of the former doorway should remain, with architraves retained on each side.
- 5.7 At ground floor level the masonry wall dividing the original hall and stairwell from the rear outrigger would be wholly removed, thereby resulting in the loss of the physical distinction between the highly significant main house, with its grand principal rooms, and the lesser outrigger. In addition, the timber boarded enclosure to the basement stair is assumed to be original and would be removed and replaced with an open balustrade and the entry point to the basement stair relocated. There appears to be no historic basis for this alteration and it is contrary to SPGBH11.
- 5.8 To overcome these concerns sections of solid wall should be retained either side of the opening to between the hall and outrigger, with a consequently narrower glazed screen. The relocation of the entrance point to the basement stair could be accepted, given that it is not historic, but the solid timber enclosure to the stair should be retained (unless it can be clearly demonstrated that it is not historic).
- 5.9 There is no objection to the internal works at first floor level, which largely relate to the outrigger, and the infilling of the spine wall opening at second floor level is considered to be a modest benefit.

- 5.10 Externally the main alteration is the demolition of the conservatory and erection of a two storey rear extension. The removal of the conservatory is welcome and, given the length of the rear garden, there is no objection in principle to an extension here. However, the proposal would be clearly wider than the existing outrigger and, of greater concern, its pitched roof with central ridge would sit awkwardly next to the monopitch roof of the original outrigger. The proposal is therefore considered to be harmful to the listed building and the existence of a large extension to the neighbouring property should not be regarded as an appropriate precedent. Any new extension should be ideally be no wider than the outrigger but should certainly have a monopitch roof of the same pitch (though this could be set slightly lower).
- 5.11 There is no objection to the insertion of flanking windows to the basement canted bay; there is currently no uniformity to the terrace in this respect and such an arrangement is common to the period. There is also no objection to the excavation of a larger front lightwell given that the front garden seems to have been much altered in the 20th century. However, the relocated steps would have the first tread encroaching onto the front path, which is a wholly non-traditional arrangement.
- 5.12 It is recognised and acknowledged that there are some benefits to the proposals, such as the reinstatement of some sash windows, replacement of rainwater goods in cast iron, the removal of a suspended ceiling to the first floor stair landing, the removal of false arches either side of the chimney breasts, and the reinstatement of more appropriate internal doors. But these are not considered to be sufficient to outweigh the various harmful works, both internal and external, identified above.
- 5.13 Further Comment
The revised drawings satisfactorily address all of the previous concerns. Internally the loss of much of the basement hall partition remains regrettable but is balanced by beneficial works elsewhere internally. The works to the basement staircase and ground floor staircase enclosure are now appropriate, subject to further detail by condition. Externally the revised rear extension now sits much more comfortably with the existing outrigger and maintains the historic character of the rear elevations.

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:

SPGBH11 Listed Building Interiors

Supplementary Planning Documents:

SPD09 Architectural Features

8. **CONSIDERATIONS & ASSESSMENT**

8.1 Subject to the recommended conditions, the proposed works would not harm the historic character or appearance of the Grade II listed building, in accordance with policies HE1 and HE4 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

8.2 **External Alterations**

The proposed rear extension would adjoin the existing outrigger measuring 3.6 depth and 3.7 in width and replaces a non-original conservatory that currently detracts from the historic character of the property. The extension itself would be approximately 0.8m wider than the outrigger, however amendments have been submitted revising the roof form to a mono-pitch roof that would be slightly set down from the existing ridge of the outrigger and continue the roofslope on a matching pitch. The significant improvement to the roof form ensures that although the footprint of the extension is wider than the outrigger, the addition would still appear subservient and would not form an overly dominant feature to the rear of the building.

8.3 In terms of the detailing of the extension, the materials and appearance would closely match the main building. Traditional sash windows would be installed on the side wall of the extension along with two additional sash windows on the flank wall of the existing outrigger. At the rear, the ground floor window would be

a larger opening, and similar in design and proportions to the existing front first floor window. A conservation style rooflight would be installed within the slope of the existing roof serving the proposed ensuite bathroom. There is no objection to these works in terms of their impact on the listed building.

- 8.4 At the front, the main external alterations include the insertion of flanking windows to the basement canted bay. There is currently no uniformity to the terrace in this respect and such an arrangement is common to the period. There is also no objection to the excavation of a larger front lightwell, and it is noted that this area has already been significantly altered.
- 8.5 The proposals also include reinstatement of non-traditional windows, the replacement of rainwater goods in cast iron and restoration of the rear courtyard. These alterations are welcomed and would restore some of the historic character.
- 8.6 It is therefore considered that the proposed works would not result in any significant harm to the historic character and appearance of the listed building.

8.7 **Internal Alterations**

The proposed internal works mostly involve the ground and basement levels of the building. At basement level it is proposed to significantly open up the original plan form, including the loss of the partition wall between the hall and the front room, the formation of an opening between the front and rear rooms and the opening up of the wall dividing the rear room and the outrigger. Revised plans have been submitted which show sections of these original walls being retained. The Heritage Officer states that the loss of much of the basement hall partition remains regrettable but is balanced by beneficial works elsewhere internally.

- 8.8 The treatment of the basement stairs and ground floor staircase is now considered appropriate following the submission of revised plans and at the suggestion of the Heritage Officer, the original door to the basement stair is to be replaced with a glass screen to retain evidence of the original partition that is to be lost. The entrance point to these stairs would be relocated, due to the removal of this doorway and the stairs would now be accessed from the proposed sitting room as opposed to the hallway. Whilst this is a significant alteration to this level of the building, improvements are also to be made to the stair enclosure. The non-original mirrored infill panels within the stair panelling would be replaced with traditional recessed timber panels. The balusters to both ground and basement stairs would be replaced with traditional plain square balustrades, which are evident at these levels on neighbouring properties. These alterations are welcomed and would restore some of the original character of the building. Further details of the stairs are requested condition.
- 8.9 At ground floor within the front rooms, the non-original arches either sides of the chimney breasts are to be removed as well as a non-original rear stained glass window. The rear of this level would be opened up to create a large open plan area feeding into the new rear extension. The Heritage Officer has previously raised concerns regarding the level of alteration to this part of the building, however on balance and given the improved alterations to the staircase

enclosure, it is considered that these works would not cause significant harm to this level of the building.

- 8.10 All other internal works are considered acceptable. There is no objection to the internal works at first floor level, which largely relate to the outrigger

9. EQUALITIES

- 9.1 None identified.

Information on Pre-application Presentations and Requests 2017

Date	Address	Ward	Proposal	Update
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 - 7th Feb 2017 requested	189 Kingsway, Hove (former Sackville Hotel)	Westbourne	Construction of 8 storey residential block.	
TBC - 7 th Feb 2017 requested	60-62 & 65 Gladstone Place, Brighton	Hanover & Elm Grove	Redevelopment to provide mixed, student and residential scheme.	
10 th January 2017	West Blatchington Primary School, Hangleton Way, Hove	Hangleton & Knoll	Redevelopment to provide new secondary school and junior school.	Awaiting submission of application.
13 th December 2016	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.	Awaiting submission of application.
11 th October 2016	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.	Awaiting submission of application.

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 Hove Town Hall on the date given after scheduled site visits unless otherwise stated.

			Southern part of site – conversion into a single or a series of trade counter and/or builders merchants.	
13 th September 2016	Life Science Building, Sussex University	Hollingdean & Stanmer	17,000sqm teaching space and café.	Application BH2016/05810 under consideration at Planning Committee 08/02/17.
13 th September 2016	Boots, North Street/Queen's Road, Brighton	St Peters & North Laine	Demolition of existing building and construction of new retail store.	Awaiting submission of application.
2 nd August 2016	Medina House, 9 Kings Esplanade, Hove	Central Hove	Demolition of existing building and construction of a new dwelling.	Application BH2016/05893 submitted.

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 Hove Town Hall on the date given after scheduled site visits unless otherwise stated.

Appeals Determined between 14/12/2016 - 11/01/2017

Count of Appeals = 17

Adrian Smith

Appeal Appn No	BH2015/01471
Address	The Astoria 10-14 Gloucester Place Brighton
Development 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.
Appeal Received	13/07/2016
Reason for Appeal	Full Planning-against refusal
Appeal Status	Appeal Allowed
Appeal Type	Hearing
Appeal Decision	Appeal Allowed
Appeal Decision Date	11/01/2017

Ayscha Woods

Appeal Appn No	APL2016/05052
Address	11 Hangleton Gardens, Hove, BN3 8AB
Development Description	Removal of existing conservatory, erection of single storey rear extension with raised terrace and glazed balustrading, excavation at basement level and creation of external stairs to access rear garden.
Appeal Received	14/11/2016
Reason for Appeal	Householder-against refusal P1FastTk
Appeal Status	Appeal Dismissed
Appeal Type	Written Representation
Appeal Decision	Appeal Dismissed
Appeal Decision Date	03/01/2017

Appeal Appn No	APL2016/05053
Address	132A Warren Road, Brighton, BN2 6DB
Development Description	Erection of conservatory to side.
Appeal Received	14/11/2016
Reason for Appeal	Householder-against refusal P1FastTk
Appeal Status	Appeal Dismissed
Appeal Type	Householder Appeal
Appeal Decision	Appeal Dismissed
Appeal Decision Date	03/01/2017

Charlotte Bush

Appeal Appn No	APL2016/05027
Address	12 Coombe Terrace, Brighton, BN2 4AD
Development Description	Erection of single storey rear extension (Retrospective).
Appeal Received	27/09/2016
Reason for Appeal	Full Planning-against refusal
Appeal Status	Appeal Dismissed
Appeal Type	Written Representation
Appeal Decision	Appeal Dismissed
Appeal Decision Date	19/12/2016

Chris Swain

Appeal Appn No	APL2016/05016
Address	68A St Georges Road Brighton
Development Description	Demolition of existing office building and erection of 1no three bedroom dwelling (C3) to rear of site (Part Retrospective).
Appeal Received	15/09/2016
Reason for Appeal	FullPlanMinorCom-non determination
Appeal Status	Appeal Dismissed
Appeal Type	Written Representation
Appeal Decision	Appeal Dismissed
Appeal Decision Date	16/12/2016
Appeal Appn No	BH2015/03852
Address	48 London Road Brighton
Development Description	Loft conversion to form 1no one bedroom flat (C3) with associated alterations including raising of ridge height, erection of rear extension and front and rear rooflights.
Appeal Received	28/07/2016
Reason for Appeal	Appeal Against Refusal
Appeal Status	Appeal Dismissed
Appeal Type	Written Representation
Appeal Decision	Appeal Dismissed
Appeal Decision Date	14/12/2016

Helen Hobbs

Appeal Appn No	APL2016/05018
Address	MEDIA HOUSE, 26 - 26 North Road, Preston, Brighton, BN1 6SP (Media House 26 North Road Brighton)
Development Description	Extensions and alterations to main building to facilitate the conversion from office/general industry (B1/B2) to from 4no residential dwellings (C3) with associated works.
Appeal Received	14/09/2016
Reason for Appeal	Full Planning-against non determination
Appeal Status	Appeal Dismissed
Appeal Type	Written Representation
Appeal Decision	Appeal Dismissed
Appeal Decision Date	19/12/2016
Appeal Appn No	APL2016/05035
Address	19 Oriental Place, Brighton, BN1 2LL
Development Description	Conversion of hotel (C1) to form 4no studio flats, 3no one bedroom flats and 1no two bedroom maisonette (C3) with associated alterations including rear extension at second floor level.
Appeal Received	24/10/2016
Reason for Appeal	Full Planning-against refusal
Appeal Status	Appeal Dismissed
Appeal Type	Written Representation
Appeal Decision	Appeal Dismissed
Appeal Decision Date	11/01/2017

Jonathan Puplett

Appeal Appn No	BH2014/03715
Address	Aldi Stores Ltd 7 Carlton Terrace Portslade
Development Description	Application for variation of condition 1 of application BH2011/02857 to vary the hours of operation of the store to read: The store shall not be open for trading to the public except between the hours of 08:00 and 22:00 on Monday to Saturday, and 10:00 to 16:00 on Sundays and Bank Holidays. Staff may be within the premises between the hours of 07:00 and 23:00 hours on Mondays to Saturdays and 09:30 to 17:30 on Sundays and Bank Holidays.
Appeal Received	19/05/2016
Reason for Appeal	Appeal against conditions imposed
Appeal Status	Appeal Dismissed
Appeal Type	Hearing
Appeal Decision	Appeal Dismissed
Appeal Decision Date	14/12/2016
Appeal Appn No	BH2015/04273
Address	Land Rear Of 1-45 Wanderdown Road Ovingdean Brighton
Development 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.
Appeal Received	04/05/2016
Reason for Appeal	Non-determination
Appeal Status	Appeal Dismissed
Appeal Type	Public Enquiry
Appeal Decision	Appeal Dismissed
Appeal Decision Date	04/01/2017

Molly McLean

Appeal Appn No	APL2016/05043
Address	136A Woodland Drive, Hove, BN3 6DE
Development Description	Roof alterations to include removal of existing rear dormer to facilitate the erection of a first floor rear and side extension, including juliette balcony to rear and rooflights
Appeal Received	31/10/2016
Reason for Appeal	Householder-against refusal P1FastTk
Appeal Status	Appeal Allowed
Appeal Type	Written Representation
Appeal Decision	Appeal Allowed
Appeal Decision Date	19/12/2016
Appeal Appn No	APL2016/05045
Address	18 Friar Road, Brighton, BN1 6NG
Development Description	Creation of raised timber decking with glass balustrading to rear garden.
Appeal Received	01/11/2016
Reason for Appeal	Householder-against refusal P1FastTk
Appeal Status	Appeal Allowed
Appeal Type	Householder Appeal
Appeal Decision	Appeal Allowed
Appeal Decision Date	20/12/2016
Appeal Appn No	APL2016/05050
Address	The Bungalows, 11 Hangleton Lane, Hove, BN3 8EB (The Bungalow 11 Hangleton Lane Hove)
Development Description	Removal of existing flint wall.
Appeal Received	15/11/2016
Reason for Appeal	Householder-against refusal P1FastTk
Appeal Status	Appeal Dismissed
Appeal Type	Householder Appeal
Appeal Decision	Appeal Dismissed
Appeal Decision Date	03/01/2017
Appeal Appn No	APL2016/05054
Address	The Bungalows, 11 Hangleton Lane, Hove, BN3 8EB (The Bungalow 11 Hangleton Lane Hove)
Development Description	Alterations to boundary wall at north and west elevations.
Appeal Received	14/11/2016
Reason for Appeal	Householder-against refusal P1FastTk
Appeal Status	Appeal Dismissed
Appeal Type	Householder Appeal
Appeal Decision	Appeal Dismissed
Appeal Decision Date	03/01/2017

Robin Hodgetts

Appeal Appn No	BH2015/03534
Address	17 Bernard Road Brighton
Development Description	Change of Use from residential dwelling (C3) to House in Multiple Occupation (C4). (Part retrospective)
Appeal Received	01/03/2016
Reason for Appeal	Appeal Against Refusal
Appeal Status	Appeal Dismissed
Appeal Type	Written Representation
Appeal Decision	Appeal Dismissed
Appeal Decision Date	06/01/2017

Sonia Gillam

Appeal Appn No	APL2016/05005
Address	The Parade Valley Drive Brighton BN1 5FQ
Development Description	Erection of two storey building comprising of commercial unit (A1/A2/B1) at ground floor and 1no two bedroom flat above.
Appeal Received	07/09/2016
Reason for Appeal	Full Planning-against refusal
Appeal Status	Appeal Dismissed
Appeal Type	Written Representation
Appeal Decision	Appeal Dismissed
Appeal Decision Date	14/12/2016

Stewart Glassar

Appeal Appn No	APL2016/05030
Address	C H MEARS AND SON, 18 Circus Street, Brighton, BN2 9QF (18 Circus Street Brighton)
Development Description	Demolition of existing building and erection of three storey building comprising 3no one bedroom flats (C3).
Appeal Received	06/10/2016
Reason for Appeal	Full Planning-against refusal
Appeal Status	Appeal Dismissed
Appeal Type	Written Representation
Appeal Decision	Appeal Dismissed
Appeal Decision Date	11/01/2017

NEW APPEALS RECEIVED**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****CENTRAL HOVE**

BH2016/02693

5 Kings Gardens, Hove, BN3 2PE

Conversion of ancillary store rooms into 1no self-contained studio flat (C3) at lower ground floor including installation of roof lantern.

APPEAL IN PROGRESS

15/12/2016

Delegated

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

BH2016/02134

24 Eaton Place, Brighton, BN2 1EH (Basement Ground & First Floor 24 Eaton Place Brighton)

Conversion of existing doctors surgery (D1) into 4no residential dwellings with erection of rear extension, cycle store and associated alterations.

APPEAL IN PROGRESS

15/12/2016

Delegated

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

BH2016/02135

Basement Ground And First Floor 24 Eaton Place Brighton

Conversion of existing doctors surgery (D1) into 4no residential dwellings with erection of rear extension, cycle store and associated alterations.

APPEAL IN PROGRESS

15/12/2016

Delegated

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

BH2015/01462

41A Cromwell Road Hove

Certificate of Lawfulness for existing use of basement level as 2no self-contained residential units.

APPEAL IN PROGRESS

11/01/2017

APPLICATION DECISION LEVEL Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

GOLDSMID

BH2016/02370

23 Cambridge Grove Hove BN3 3ED

Conversion of 1no existing garage into 1no three bedroom maisonette at ground and first floor level with alterations to existing maisonette. (Part retrospective)

APPEAL IN PROGRESS

09/01/2017

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

GOLDSMID

BH2016/02526

GATEWAYS, Highdown Road, Hove, BN3 6EE

Certificate of lawfulness for proposed demolition of garage and erection of single storey front, side and rear extension, alterations to the front boundary wall.

APPEAL IN PROGRESS

06/01/2017

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

HANOVER AND ELM GROVE

BH2016/02058

75A Hanover Street, Brighton, BN2 9SS

Replacement of existing timber framed windows with white powder coated aluminium framed windows.

APPEAL IN PROGRESS

04/01/2017

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

MOULSECOOMB AND BEVENDEAN

BH2016/02705

18 Colbourne Avenue, Brighton, BN2 4GE

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

APPEAL IN PROGRESS

05/01/2017

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

MOULSECOOMB AND BEVENDEAN

BH2016/05050

33 Hillside Brighton BN2 4TF

DEVELOPMENT DESCRIPTION Certificate of lawfulness for proposed hip to gable roof extension, rear dormer, 2no front rooflights and single storey rear extension.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 15/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **NORTH PORTSLADE**
APPEALAPPNUMBER BH2016/05268
ADDRESS 8 Sefton Road Portslade BN41 2RH
DEVELOPMENT DESCRIPTION Demolition of existing garage and erection of single storey side extension with roof alterations incorporating hip to gable extension, front & rear dormers and associated alterations.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 11/01/2017
APPLICATION DECISION LEVEL Delegated

WARD **PATCHAM**
APPEALAPPNUMBER BH2016/01961
ADDRESS 46 Old London Road, Brighton, BN1 8XQ (46-54 Old London Road Brighton)
DEVELOPMENT DESCRIPTION Demolition of existing Buildings and erection of a 3 Storey building containing 44 assisted living apartments for older persons with associated communal facilities, parking and landscaping.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 15/12/2016
APPLICATION DECISION LEVEL Planning (Applications) Committee

WARD **PATCHAM**
APPEALAPPNUMBER BH2016/02567
ADDRESS 9 Highview Way, Brighton, BN1 8WS
DEVELOPMENT DESCRIPTION Certificate of Lawfulness for proposed loft conversion with hip to gable roof extension, side dormer, front and side rooflights and alterations to fenestration.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 15/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **PATCHAM**
APPEALAPPNUMBER BH2016/05207
ADDRESS 9 Beechwood Avenue Brighton BN1 8ED
DEVELOPMENT DESCRIPTION Erection of a two storey rear extension with associated alterations including to roof and fenestration.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 15/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **PRESTON PARK**
APPEALAPPNUMBER BH2016/02629
ADDRESS 38 Southdown Avenue, Brighton, BN1 6EH
DEVELOPMENT DESCRIPTION Erection of new timber fence and gate to front garden.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 23/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **REGENCY**
APPEALAPPNUMBER BH2016/02429
ADDRESS PRIORY HOUSE, Bartholomew Square, Brighton, BN1 1JS
DEVELOPMENT DESCRIPTION Erection of additional storey to create 1no residential apartment (C3).
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 20/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **REGENCY**
APPEALAPPNUMBER BH2016/02505
ADDRESS 74 East Street, Brighton, BN1 1HQ
DEVELOPMENT DESCRIPTION Display of externally-illuminated painted sign, internally-illuminated high level sign and non-illuminated awning. (Part Retrospective)
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 20/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **REGENCY**
APPEALAPPNUMBER BH2016/02506
ADDRESS 74 East Street, Brighton, BN1 1HQ
DEVELOPMENT DESCRIPTION Installation of retractable awning to South side elevation. (Part Retrospective)
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 20/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **ROTTINGDEAN COASTAL**
APPEALAPPNUMBER BH2016/02023
ADDRESS 30 Chorley Avenue Brighton
DEVELOPMENT DESCRIPTION Erection of single storey side and rear extension (Part Retrospective).

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 14/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **SOUTH PORTSLADE**
APPEALAPPNUMBER BH2016/01923
ADDRESS 14 Mill Lane, Portslade, BN41 2DE
DEVELOPMENT DESCRIPTION Certificate of lawfulness for proposed erection of mobile home to rear garden.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 15/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **ST. PETER'S AND NORTH LAINE**
APPEALAPPNUMBER BH2015/04474
ADDRESS Longley Industrial Estate, New England Street, Brighton, BN1 4GY
DEVELOPMENT DESCRIPTION Change of use of all units from light industrial (B1c) and warehousing (B8) to offices (B1a) together with external alterations and refurbishment including increase in height of building, installation of curtain walling system, metal faced cladding and glazed panelling, revised vehicular and pedestrian access, new cycle and motor cycle storage and disabled parking bays.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 10/01/2017
APPLICATION DECISION LEVEL Planning (Applications) Committee

WARD **ST. PETER'S AND NORTH LAINE**
APPEALAPPNUMBER BH2016/02335
ADDRESS SECOND FLOOR FLAT, 21 Vere Road, Brighton, BN1 4NQ (Top Floor Flat 21 Vere Road Brighton)
DEVELOPMENT DESCRIPTION Roof alterations incorporating installation of dormers to front and rear elevations.
APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 20/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **WESTBOURNE**
APPEALAPPNUMBER BH2016/02533
ADDRESS THE SUSSEX PANTRY, 184 Portland Road, Hove, BN3 5QN

DEVELOPMENT DESCRIPTION Erection of single storey rear extension and separation of part of the rear of the existing ground floor retail premises to create 1no flat (C3) and conversion of existing dwelling on upper floors into 2no flats (C3) with associated alterations.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 20/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **WESTBOURNE**
APPEALAPPNUMBER BH2016/02729
ADDRESS 5 Braemore Road, Hove, BN3 4HA

DEVELOPMENT DESCRIPTION Erection of two storey side extension, single storey rear extension, roof extension and porch with associated works.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 15/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **WISH**
APPEALAPPNUMBER BH2016/01424
ADDRESS 93 St Leonards Road, Hove, BN3 4QQ

DEVELOPMENT DESCRIPTION Creation of vehicle crossover to footpath with openings in boundary wall and hardstanding to garden.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 15/12/2016
APPLICATION DECISION LEVEL Delegated

WARD **WISH**
APPEALAPPNUMBER BH2016/02224
ADDRESS 7 Berriedale Avenue, Hove, BN3 4JF

DEVELOPMENT DESCRIPTION Erection of first floor side extension over existing garage.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 04/01/2017
APPLICATION DECISION LEVEL Delegated

WARD **WITHDEAN**
APPEALAPPNUMBER BH2016/02611
ADDRESS 17 Green Ridge, Brighton, BN1 5LT

DEVELOPMENT DESCRIPTION Roof alterations including hip to barn end roof extension with gable extension to rear, rooflights to front, rear and side elevations and creation of enclosed glazed front porch.

APPEAL STATUS APPEAL IN PROGRESS
APPEAL RECEIVED DATE 15/12/2016

APPLICATION DECISION LEVEL Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WOODINGDEAN

BH2016/02772

1 Downsview Avenue Brighton BN2 6BP

Erection of fencing above existing brick wall to front elevation.

APPEAL IN PROGRESS

15/12/2016

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WOODINGDEAN

BH2016/03010

117 Crescent Drive North Brighton BN2 6SG

Alterations to roof including raised ridge height, side dormers, front window and rear Juliet balcony.

APPEAL IN PROGRESS

04/01/2017

Delegated

WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

WOODINGDEAN

BH2016/05177

29 Rosebery Avenue Brighton BN2 6DE

Prior Approval for the erection of a single storey rear extension, which would extend beyond the rear wall of the original house by 6m, for which the maximum height would be 2.8 m and for which the height of the eaves would be 2.5m.

APPEAL IN PROGRESS

04/01/2017

Delegated



INFORMATION ON HEARINGS / PUBLIC INQUIRIES

**Brighton & Hove
City Council**

This is a note of the current position regarding Planning Inquiries and Hearings

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

Planning Application no:	BH2015/01471
Description:	Demolition of existing Grade II listed building (approved under BH2013/03927) and construction of a new part 3/part 7 storey building (plus basement) to form 70no one, two, three and four bedroom self-contained residential units (C3) and incorporating commercial units (A1/A2/B1) in the basement and on the ground floor fronting Gloucester Place, a community room (D1) on the ground floor fronting Blenheim Place together with refuse/recycling facilities, cycle storage and other associated works.
Decision:	Appeal Allowed
Type of Appeal	Informal Hearing against Refusal (downgraded from Public Inquiry)
Date:	14th December, Jubilee Library
Site Location:	The Astoria 10-14 Gloucester Place Brighton

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

Planning Application no:	BH2016/01961
Description:	Demolition of existing Buildings and erection of a 3 Storey building containing 44 assisted living apartments for older persons with associated communal facilities, parking and landscaping.
Decision:	
Type of Appeal	Public Inquiry against Non-Determination
Date:	TBC
Site Location:	46-54 Old London Road, Brighton

Planning Application no:	BH2015/01462
Description:	Certificate of Lawfulness for existing use of basement level as 2no self-contained residential units.
Decision:	
Type of Appeal	Public Inquiry against Non-Determination
Date:	TBC
Site Location:	41a Cromwell Road, Hove

APPEAL DECISIONS

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<p>Application BH2016/00384 – Appeal against refusal to grant planning permission for a ‘retrospective application for planning permission to retain rear shop new store’. APPEAL DISMISSED (delegated decision)</p>	
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<p>Application BH2016/01119 – Appeal against refusal to grant planning permission for first floor extension to provide master bedroom suite and minor internal alterations over existing kitchen area. APPEAL ALLOWED (delegated decision)</p>	
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<p>Application BH2016/00872 – Appeal against refusal to grant planning permission for the demolition of a detached wall (Not part of a listed demise) within a conservation area’. APPEAL DISMISSED (delegated decision)</p>	

G – 11 HANGLETON LANE, BRIGHTON – HANGLETON & KNOLL 153

Application BH2016/02165 – Appeal against refusal to grant planning permission for a ‘boundary enclosure to Hangleton Valley Drive and Hangleton Lane of the north and west demise of The Bungalow, 11 Hangleton Lane’.

APPEAL DISMISSED (delegated decision)

H – WANDERDOWN ROAD, O VingDEAN, BRIGHTON – ROTTINGDEAN COASTAL 155

Application BH2015/04273 – Appeal against non-determination for the erection of 9 houses and access drive.

APPEAL DISMISSED

I – 19 ORIENTAL PLACE, BRIGHTON – REGENCY 157

Application BH2015/04087 – Appeal against refusal to grant planning permission for ‘Conversion of Hotel (C1) to form 4no. studio flats, 3no. one bedroom flats and 1no. two bedroom maisonette (C3) with associated alterations including rear extension at second floor level’.

APPEAL DISMISSED (delegated decision)

J – 19 ORIENTAL PLACE, BRIGHTON – REGENCY 171

Application BH2015/04088 – Appeal against refusal to grant planning permission for ‘Conversion of Hotel (C1) to form 4no. studio flats, 3no. one bedroom flats and 1no. two bedroom maisonette (C3) with associated alterations including rear extension at second floor level’.

APPEAL DISMISSED (delegated decision)

K – 18 CIRCUS STREET, BRIGHTON – QUEEN’S PARK 179

Application BH2016/00636 – Appeal against refusal to grant planning permission for ‘demolition of existing building and erection of three storey building comprising 3no one bedroom flats (C3)’. **APPEAL**

DISMISSED (delegated decision)

L – 17 BERNARD ROAD, BRIGHTON – WESTBOURNE 185

Application BH2013/0590 – Appeal against an enforcement notice issued by Brighton & Hove City Council. The breach of planning control as alleged in the notice is the change of use of the property from a dwelling house (C3) to use as a house in multiple occupation.

APPEAL DISMISSED

M – 17 BERNARD ROAD, BRIGHTON – WESTBOURNE 185

Application BH2015/03534– Appeal against refusal to grant planning permission for the change of use from a C3 dwelling to a C4 shared dwelling for 6 persons. **APPEAL DISMISSED**

N – THE ASTORIA, 10-14 GLOUCESTER PLACE, BRIGHTON – ST PETER’S AND NORTH LAINE 191

Application BH2015/01471 – Appeal against refusal to grant planning permission for 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 70 one, two three and four bedroom self-contained residential units (C3) and incorporating commercial units (A1/A2/B1) 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. **APPEAL ALLOWED** (delegated decision)

O – 81 DEAN COURT ROAD, ROTTINGDEAN, BRIGHTON – ROTTINGDEAN COASTAL 203

Application BH2016/05190 – Appeal against refusal to grant planning permission for the erection of a detached pitched roof garage with home gymnasium. **APPEAL ALLOWED** (delegated decision)

P – GROUND FLOOR FLATS 1 AND 2, 22 BRUNSWICK STREET EAST, HOVE – BRUNSWICK & ADELAIDE 207

Application BH2014/0448 – Appeal against an enforcement notice issued by Brighton & Hove City Council. The breach of planning control as alleged in the notice is the change of use from two garages (sui generis) to 2 no self-contained dwelling units (C3) and the installation of new garage doors. **APPEAL DISMISSED**

Q – 5 GODWIN ROAD, HOVE – HANGLETON AND KNOLL 211

Application BH2016/01397 – Appeal against refusal to grant planning permission for a ‘construction of 1 no. two storey, two bedroom, detached dwelling to the east of 5 Godwin Road’. **APPEAL DISMISSED** (delegated decision)

R – 39 OLD SHOREHAM ROAD, BRIGHTON – PRESTON PARK 215

Application BH2016/01934 – Appeal against refusal to grant planning permission for ‘remove existing single/two storey side extension and replace with a new two storey extension in order to facilitate conversion of the building from a single dwelling house to 6 flats’. **APPEAL DISMISSED** (delegated decision)

Appeal Decision

Site visit made on 21 November 2016

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 19th December 2016

Appeal Ref: APP/Q1445/W/16/3156328

12 Coombe Terrace, Brighton, East Sussex BN2 4AD

- 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 Eyad Khalil against the decision of Brighton and Hove City Council.
 - The application Ref BH2016/00384, dated 21 January 2016, was refused by notice dated 17 June 2016.
 - The development proposed is described as 'retrospective application for planning permission to retain rear shop new store'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The development has been completed as per the details shown on the application drawings, with a 4.0 metre deep, single storey extension having been constructed to the rear of the appeal property (No 12). This extension is being used for storage purposes in association with the shop's operation. I have therefore determined this appeal as one concerning development that has been implemented in accordance with the details shown on the drawings listed on the Council's decision notice.

Main Issues

3. The main issues are the effect of the development on: the living conditions of the occupiers of 11 and 11A Coombe Terrace (No 11/11A), with particular regard to outlook and light; and the character and appearance of No 12 and the surrounding area.

Reasons

Living Conditions

4. No 12 is a mid-terrace, two storey property which is occupied as a shop on the ground floor with residential accommodation on the first floor. No 11/11A is similarly occupied, albeit that the shop area is currently vacant. No 11/11A's rear yard area is quite small and it appeared to be used for domestic purposes, given the presence of a rotary washing line.
 5. The extension is attached to the rear of No 12's two storey outrigger and is a little deeper than the outrigger's own depth. In comparative terms the rearward projection at No 12 is now significant, with the majority of the area
-

to the rear of this property now being occupied by single and two storey structures. While the extension has been offset from the boundary with No 11/11A by around half a metre, this boundary is marked by a low wall and I therefore consider that its presence is having a significant enclosing effect, with the southerly outlook in No11/11A's yard having been greatly reduced. There is no meaningful outlook to the east (rear) of No 11/11A because of the proximity of the four storey warehouse building in Coombe Road.

6. I recognise that the extension may be giving rise to some loss of light and overshadowing to the rear of No 11/11A. However, I do not consider that that loss is of a scale that is harmful to the occupiers of No 11/11A. That is because of the single storey nature of the extension and the proximity of the large warehouse building to the rear, with the latter having much greater implications for the receipt of light to the rear of No 11/11A.
7. While there may be other properties in Coombe Terrace with extensions, those additions were not apparent when I undertook my site visit. I am therefore unable to make a comparison between No 12's extension and any others. In any event I am required to consider the development on its own merits and that is what I have done.
8. For the reasons given above I conclude that the extension's adverse effect on the outlook from No 11/11A's yard is causing unacceptable harm to the living conditions of the occupiers of this property. There is therefore conflict with Policies QD14 and QD27 of the Brighton and Hove City Plan Part One of 2016 (the City Plan) because of the loss of outlook and resulting harm to the amenity (living conditions) of the occupiers of a neighbouring property.

Character and Appearance

9. Although the extension is occupying the majority of the area to the rear of No 12 I found its flat roof and the use of timber cladding to mean that it has, in architectural terms, a subordinate appearance relative to No 12. I therefore find that the extension is neither unduly bulky nor out of character with No 12 or its surroundings.
10. I therefore conclude that the development has not caused harm to the character or appearance of No 12 or the surrounding area. Accordingly in this respect there is no conflict with Policy QD14 of the City Plan or the Council's Supplementary Planning Document 12 'Design Guide for Extensions and Alterations' of 2013 because the extension is appropriately designed and sited relative to No 12 and is not excessive in scale relative to that property.

Conclusion

11. While I have found that the extension has not harmed the character and appearance of No 12 and the surrounding area, it is causing unacceptable harm to the living conditions of the occupiers of No 11/11A because of the loss of outlook. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR

Appeal Decision

Site visit made on 22 November 2016

by **A J Mageean BA (Hons) BPI PhD MRTPI**

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

Decision date: 19th December 2016

Appeal Ref: APP/Q1445/D/16/3157255 136a Woodlands Drive, Hove, BN3 6DE

- 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 Munday against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01119, dated 31 March 2016, was refused by notice dated 23 June 2016.
 - The development proposed is first floor extension to provide master bedroom suite and minor internal alterations over existing kitchen area.
-

Decision

1. The appeal is allowed and planning permission is granted for first floor extension to provide master bedroom suite and minor internal alterations over existing kitchen area at 136a Woodlands Drive, Hove in accordance with the terms of the application, Ref BH2016/01119, dated 31 March 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2702-01; 2702-02; 2702-03; 2702-04; 2702-05.
 - 3) The materials used in the construction of the external surfaces of the building hereby permitted shall match those used in the existing building.
 - 4) The windows on the side elevations 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.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the building and the Woodland Drive Conservation Area.

Reasons

3. The appeal site is located within the Woodland Drive Conservation Area. This area is characterised by detached dwellings set in good sized plots with particularly long rear gardens. Some mature vegetation on front and rear
-

boundaries provides an attractive setting. The road has a north to south downward gradient, and the land also rises to the west.

4. The dwellings on the western side of the road, in which the appeal property is located, have a distinct mock-Tudor style. Whilst there is some individual variation in the appearance of each dwelling, they generally include steeply pitched tiled roofs with front facing gables, gable dormers, and timber frame with plaster and brick nogging detailing to the front elevations. These front elevations appear relatively unaltered, though some side and rear additions are visible from the road frontage.
5. To the rear these properties are less elaborate, though distinctive tall chimneys and part render/part brick finishes provide some unity to their appearance. The appeal property has an existing single storey rear extension which projects into the garden from the north western half of the rear elevation of this property. This is hidden from view from the road frontage, and to the rear it appears as a reasonably discreet addition due to both the lower level of the property in relation the rear garden which rises to the west and also the presence of high boundary fences.
6. The proposal is for a first floor extension to create a master bedroom suite over the existing single storey extension. This proposal would have a similar part-pitched, part-flat roof form to that of the existing single storey extension. This would involve the loss of an existing rear facing dormer window, with the new higher level roof adjoining the property with the same ridge height as the existing lower level roof ridge of the original dwelling. A large window and Juliette balcony would be present at first floor level on the rear elevation, and a number of additional side windows are also proposed.
7. The extension would appear as a significant rear addition to the northern elevation of this property, and to a lesser extend its southern elevation. Whilst it would not be visible when viewed from directly in front of the property, it would be visible in glimpsed views from the street.
8. The Council have concerns about the nature and size of this addition, suggesting that it would not relate well to the existing dwelling or the wider Conservation Area. However, my view is that in building over the existing rear addition and connecting with the original roof ridge, the proposal has sought to integrate what would be a sizable addition with the existing property.
9. I accept that the flat area of roof would be more visible and appear somewhat truncated. However the fact that this would replicate the existing single storey roof profile, and would have similar gradients to the existing roof, would assist with its assimilation. I also accept that there would be some misalignment of eaves levels as the result of this addition, though my view is that this would not be an unduly disruptive element in what is already a varied roof form. Furthermore, as the design and detailing of the extension would seek to replicate the existing rear and side elevations this would also assist in its integration with the existing building. Overall therefore the extension would not detract from the original form of the building or be unduly intrusive in the wider Conservation Area.
10. For these reasons I do not consider that this proposal would have a detrimental effect on the character and appearance of this building, or the wider Woodland Drive Conservation Area. It would therefore not conflict with the Brighton and

Hove Local Plan 2016 which at Policy QD14 requires extensions to be well designed and to take into consideration the character of the property and surrounding area. It would also comply with Policy HE6 and the Supplementary Planning Document SPD12 2013 which require proposals to preserve or enhance the character of conservation areas.

Conclusion

11. I have found in this case that the proposal would not be unacceptable in terms of its effect on the character of the dwelling or surrounding Conservation Area. This scheme would therefore be acceptable when assessed against the development plan and National Planning Policy Framework taken as a whole.
12. To ensure a satisfactory appearance the development should be carried out in accordance with approved plans, and the external materials should match the existing house. It is also appropriate to require that the windows on the side elevations be obscure glazed and non-opening in order to protect the privacy of the occupiers of neighbouring properties. Subject to these conditions, the appeal should succeed.

AJ Mageean

INSPECTOR

Appeal Decision

Site visit made on 22 November 2016

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 20th December 2016

Appeal Ref: APP/Q1445/D/16/3156489

18 Friar Road, Brighton, BN1 6NG

- 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 Andrew Pettifer against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00922 dated 15 March 2016, was refused by notice dated 10 June 2016.
 - The development proposed is the creation of raised timber decking with glass balustrading to rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of raised timber decking with glass balustrading to rear garden at 18 Friar Road, Brighton, BN1 6NG in accordance with the terms of the application, Ref BH2016/00922, dated 15 March 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan_1 Proposed Decking 18 Friar Road Date: 6/3/2016; Ref: BH2016/00922 Existing Drawing 2B; Ref: BH2016/00922 Proposed Drawing 2B; Front Elevation_1 Proposed Decking 18 Friar Road Date: 6/3/2016; End Elevation East_1 Proposed Decking 18 Friar Road Date: 6/3/2016; End Elevation West_1 Proposed Decking 18 Friar Road Date: 6/3/2016; Plan_1 Proposed Decking 18 Friar Road Date: 6/3/2016.

Procedural Matter

2. I have used the more succinct version of the description of this proposal provided on the Council's Decision Notice in the interests of clarity.

Main Issues

3. The main issues are the effect of the proposal on a) the living conditions of the occupiers of neighbouring properties with particular reference to privacy, and b) the appearance of the rear elevation of this dwelling.

Reasons

4. Friar Road is characterised by detached and semi-detached properties situated on long narrow plots. The road itself has a falling east to west gradient and
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also falls steeply to the south. The appeal property is a two storey detached dwelling which is located on the south side of Friar Road. It has an additional flat roofed single storey element across the whole of its rear elevation. The ground floor level of this property is located at a considerably higher level than its rear garden, with steep steps leading down from patio doors to access the garden area.

5. The proposal would introduce an area of raised decking over part of this rear elevation. This would extend over the existing steps, providing a continuation of the existing ground floor level from the dwelling out into the garden area. The decking would be enclosed with a glass balustrade.

Living conditions

6. The combination of the lower level rear gardens and the fact that these properties fill much of their plot widths means that there are already opportunities to overlook neighbouring rear gardens from the properties themselves. In the case of the appeal property, the side boundaries between it and its neighbours are defined by good sized fences and some mature vegetation, both of which provide some screening. Nevertheless it is clear that opportunities for overlooking the garden to the west, that of No 20, are greater due to the falling east to west gradient of these gardens. I also note that the rear elevation of No 20 is sited somewhat behind the single storey rear element of No 18.
7. The raised decking area, which the Council states would be around 2.4m higher than the top of the existing raised patio area, and which would be around 4.2m in width, extending around 4.2m into the garden area, would be placed adjacent to the existing patio windows in the eastern part of the rear elevation of this property. In this respect it would be sited some distance from the shared boundary with No 20, though somewhat closer to the shared boundary with No 16.
8. As No 20 is sited at a lower level than No 18 it is possible that this structure would lead to a marginal increase in the opportunities for overlooking the garden of this property. However, as noted above, at the time of my site visit the presence of the boundary fence and mature vegetation provided effective screening.
9. I note the views of objectors that this screening would be reduced should this vegetation be cut back. Whilst I accept that this could be the case, my view is that due to the position of the first floor windows in the rear elevation of No 18 behind the single storey element, as well as existing ground floor side windows, there are already opportunities to overlook most parts of the rear garden of No 20. The position of the decking away from the shared boundary, and the fact that the rear elevation of No 18 is forward of that of No 20 means that there would be no additional overlooking opportunities either of the rear elevation of No 18 or the garden area closest to this property.
10. I have noted that the decking would be closer to the shared boundary with No 16. This boundary is a similar height to that on the other side though with less mature vegetation. As such my view is that there would be a marginal increase in opportunities for overlooking of the garden area of No 16, and also the ground floor windows of this dwelling. However, I note that existing side windows in No 18 already provide opportunities for overlooking the garden of

No 16. Also, as this shared boundary and the house and garden of No 16 are at a slightly higher level than the host property, opportunities for additional overlooking would be limited and in my view would not be unacceptable.

11. Overall, given the location of the proposed decking and the local topography, I have found that it would not lead to overlooking of neighbouring rear gardens or to the loss of privacy. In this respect it would not therefore have a detrimental effect on the living conditions of the occupiers of neighbouring properties. It would comply with the Brighton and Hove City Plan Part One 2016 (the City Plan), in which Policy QD27 states that planning permission will not be granted where development would cause loss of privacy in terms of overlooking.

Appearance

12. I have noted that the timber structure proposed would project beyond the rear elevation of this property over the existing concrete steps. These steps themselves are located on top of an existing patio which is raised above the main garden level as it adjoins the dwelling by about 1m. The decking would therefore be a visible addition to the rear of the property.
13. However, as it is of modest width and enclosed by glass balustrades my view is that it would appear reasonably discrete and not bulky or intrusive. It would be visible from the rear gardens of properties located to the east due to the rising gradient. However, I observed on my site visit that there are a variety of rear additions visible in this local area. In this respect the decking would not appear out of place.
14. I conclude on this matter that the raised decking would not have a detrimental effect on the appearance of the rear elevation of this dwelling. It would therefore comply with the City Plan which at Policy QD14 requires that development should be well designed in relation to the property being extended, adjoining properties and the surrounding area.

Conclusion

15. I have found that the proposal would not be unacceptable in terms of either its effect on the living conditions of the occupiers of neighbouring properties or its effect on the appearance of the rear elevation of this dwelling. This scheme would therefore be acceptable when assessed against the development plan and National Planning Policy Framework taken as a whole.
16. To ensure a satisfactory appearance the development should be carried out in accordance with the approved plans. Subject to this condition, the appeal should succeed.

AJ Mageean

INSPECTOR

Appeal Decision

Site visit made on 12 December 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: 3rd January 2017

Appeal Ref: APP/Q1445/D/16/3159736

11 Hangleton Gardens, Hove, East Sussex BN3 8AB

- 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 Azaria Muro against the decision of Brighton & Hove City Council.
 - The application, Ref. BH2016/02795, dated 22 July 2016, was refused by notice dated 15 September 2016.
 - The development proposed is a rear extension with terrace.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed terrace on the living conditions for adjoining occupiers as regards privacy and noise and disturbance.

Reasons

3. The appeal dwelling forms one half of a semi-detached pair with No. 10 Hangleton Gardens. I saw on my visit that a conservatory on the western side of the rear elevation has already been demolished.
 4. Because of the steep fall in the land level to the rear of the house, the Council's concern is that the proposed terrace in place of the former conservatory would result in undue overlooking of No. 10's rear garden.
 5. As the Delegated Report points out, the fall in levels to the north causes mutual overlooking between Nos. 10 and 11, as a conservatory at No. 10 already allows views into the garden of the appeal property and this would no doubt have been reciprocated in the outlook from the now demolished conservatory at No. 11.
 6. The salient point therefore is whether the use of this part of the appeal site as an open-air terrace would exacerbate the effect to an unacceptable extent. Having considered both the Delegated Report and the grounds of appeal, in my assessment the views into the rear garden of No. 10 from the terrace would be greater than previously, especially when seated, and the perception of a loss of privacy also considerably increased. I note that is also the opinion of the occupiers of No. 10 in their representations on the application.
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7. Furthermore, because the terrace would be uncovered, the transmission of sound to No. 10's rear garden and conservatory is a significant issue. Whilst much depends on who occupies No. 11 and their life style, there would clearly be a greater likelihood of noise and disturbance for the inhabitants of No. 10, especially during warm weather in the summer months. In my view the existing conservatory at No. 10 would not sufficiently mitigate the adverse effect from the proposed terrace at No. 11 in terms of either the loss of privacy or the potential for noise.
8. I have considered the points in the grounds of appeal that the scheme already approved under reference BH2015/02416 would be similar, because it would have bi-folding doors on the two nearest elevations and would include a metre width of open terrace adjoining the boundary with No. 10. However, in my judgement neither this design of the addition nor the smaller terrace is sufficiently similar to the refused proposal to have a comparable impact.
9. I have also considered whether an increase in the height of the fence on the shared boundary would resolve the issue. However, because of the substantial fall in land level I do not take the view that this would make enough difference to overcome the reason for refusal.
10. Overall, I conclude that the proposed terrace would have an unacceptable effect on the living conditions for adjoining occupiers as regards privacy and noise and disturbance. This would be in harmful conflict with Policies QD14 & QD27 of the Brighton & Hove Local Plan (Retained Policies March 2016); the Council's Design Guide for Extensions and Alterations 2013, and the core planning principles of the National Planning Policy Framework 2012.
11. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR

Appeal Decision

Site visit made on 12 December 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: 3rd January 2017

Appeal Ref: APP/Q1445/D/16/3160975
132A Warren Road, Brighton BN2 6DB

- 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 Ray Packham against the decision of Brighton & Hove City Council.
 - The application, Ref. BH2016/02955, dated 8 August 2016, was refused by notice dated 10 October 2016.
 - The development proposed is a side conservatory.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed conservatory on the character and appearance of the area.

Reasons

3. I saw on my visit that 132A Warren Road is one half of a semi-detached pair of dwellings with No. 132 and occupies a corner plot at the junction of Roseberry Avenue. Both Nos 132A and No. 134 opposite are set well back from Roseberry Avenue and Warren Road, and together with their good sized gardens form a spacious setting in keeping with the residential area of which they are part.
 4. The proposed conservatory would be an addition to the flank of the appeal building that faces Roseberry Avenue, albeit it is this elevation to the building that has the main entrance. Although the proposed building would leave a gap of almost 2m to Roseberry Avenue, its position only slightly set back from the front elevation to Warren Road and clearly in front of the established building line to the Avenue would draw the eye as an inappropriately sited addition to the host dwelling.
 5. This harmful effect would be accentuated by the appearance being one of a conservatory of a standard design and normally more appropriate in a private garden to the rear of dwellings. The outcome would be one of unacceptably reducing the spacious character of the road junction. In addition it would combine with the existing rear conservatory and the covered walkway to Roseberry Avenue to give a somewhat overdeveloped and cluttered appearance to the rear and flank of the dwelling.
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6. Overall, I consider that the proposal would have a harmful effect on the street scenes of both Warren Road and Roseberry Avenue and thereby result in an unacceptably harmful effect on the character and appearance of the area.
7. The appeal scheme would therefore conflict with Policy QD14 of the Brighton & Hove Local Plan (Retained Policies March 2016); the Council's Supplementary Planning Document 12: 'Design Guide for Extensions and Alterations', and Section 7: 'Requiring Good Design' of the National Planning Policy Framework 2012.
8. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR

Appeal Decision

Site visit made on 12 December 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: 3rd January 2017

Appeal Ref: APP/Q1445/D/16/3160531
The Bungalow, 11 Hangleton Lane, Hove BN41 2FQ

- 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 Jerjes Phillips against the decision of Brighton & Hove City Council.
 - The application, Ref. BH2016/00872, dated 8 June 2016, was refused by notice dated 22 August 2016.
 - The development proposed is described as '*the demolition of a detached wall (Not part of a listed demise) within a conservation area*'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the historic character and setting of the adjacent listed buildings and the character or appearance of the Hangleton Manor Conservation Area.

Reasons

3. Notwithstanding the reference in the application description to 'demolition', the grounds of appeal explain that the proposal is to 'dismantle' the northern section of wall and use the original flints to repair the southern section. The scheme is described in more detail in the Design and Access Statement, which explains the appellant's view as to differences between the northern and southern sections of the wall as regards both their qualities and importance to the character and appearance of the conservation area. In essence it is argued that the northern section need not be retained and that the proposal would enable works to repair the more valuable and relevant southern section.
 4. However, the wall in its entirety (both the northern and southern sections and the shorter linking western section) has curtilage-listed status because of its association with the listed Rookery Cottage. As such it is necessary to have special regard to the desirability of its preservation and its setting under Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act 1990).
 5. I have noted the appellant's arguments that the northern section of the wall is not visible from the public realm, is in poor condition and because of the change in circumstances whereby it now divides the curtilage of the appeal property, it has diminished significance. However, whilst I give these comments some
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weight, particularly because in my view the size, position and design of the Bungalow have an adverse effect on the wall's setting, I nonetheless give greater weight to the comment of the Council's Heritage Officer. This is that whether visible or not, this section of the wall is of historic and evidential value because it delineates the original boundary to the Manor complex.

6. The complete removal of such a large section of wall in my judgement therefore amounts to 'substantial harm' to the significance of the asset as defined in Section 12: 'Conserving and Enhancing the Historic Environment' of the National Planning Policy Framework 2012 ('the Framework'). The Framework proceeds to explain that where a proposed development will lead to substantial harm to (or total loss of) the significance of a designated heritage asset, consent should be refused unless it can be demonstrated that the substantial harm (or loss) is necessary to achieve substantial public benefits that outweigh that harm or loss.
7. In this case there are public benefits: firstly the use of the wall's materials to repair the southern section and an undertaking to do so, which could be enforced through the imposition of a condition. Secondly there is the proper enjoyment of the Bungalow as a dwelling, which in my view is not only a private benefit to the appellant but also a public benefit. The Framework also refers the nature of a heritage asset preventing a reasonable use of the site as a relevant consideration that could contribute to the justification of its substantial harm or loss.
8. In this case the wall does to an extent restrict the reasonable use of the site by effectively severing the largest part of the garden from the building. It was evident on my visit that the appellant has young children and that the residual area of the garden to the north of the wall is of a size and shape that has little practical use for residential amenity, including children's play.
9. However, whilst I acknowledge that these benefits of dismantling the northern section of the wall's can be weighed in favour of granting permission, they are in my judgement insufficient to overcome the 'substantial harm' caused by its complete removal. It may well be that a less ambitious proposal that would secure substantially greater integration between the dwelling and the area of garden to the south of the wall without its total demolition would result in 'less than substantial harm' to the significance of the designated heritage asset and thereby enable the public benefits to prevail. However that is not the proposal before me in this appeal and would be a matter for the Council in the first instance in the event of a further application.
10. On the main issue I conclude that the proposal would have an unacceptable effect on the historic character and setting of the adjacent listed buildings and would not preserve the character and appearance of the conservation area. This would be in conflict with Policies HE1 & HE6 of the Brighton & Hove Local Plan (Retained Policies March 2016) and Section 12 of the Framework.
11. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR



Appeal Decision

Site visit made on 12 December 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: 3rd January 2017

Appeal Ref: APP/Q1445/D/16/3160530

11 Hangleton Lane, Brighton and Hove, East Sussex BN41 2FQ

- 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 Jerjes Phillips against the decision of Brighton & Hove City Council.
 - The application, Ref. BH2016/02165, dated 8 June 2016, was refused by notice dated 22 August 2016.
 - The development proposed is described as '*boundary enclosure to Hangleton Valley Drive and Hangleton Lane of the north and west demise of The Bungalow, 11 Hangleton Lane*'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed boundary treatment on the street scene; the historical setting of the Hangleton Manor listed buildings and the character and appearance of the Hangleton Manor Conservation Area.

Reasons

3. The proposal is for a boundary wall with brick piers and cast iron infill railings to an overall height of 1.6m together with a Leylandii hedgerow along the north and west boundaries of the corner plot on the junction between Hangleton Lane and Hangleton Valley Drive. I saw on my visit that the development has already commenced with the construction of the first few brick courses of the wall, whilst the Leylandii hedge has grown to a height of 2m or more.
 4. Although there are some exceptions, including a fence on a low wall between the appeal property and the Hangleton Manor Inn and some flint walls further along Hangleton Valley Drive, most of the dwellings in the vicinity are essentially open plan with at the most very low boundary walls to enclose their front gardens. The grounds of appeal refer to the boundary enclosure of Rookery Cottage and The Cottage nearby, but these properties are set back from the road and in my view are not comparable with No. 11.
 5. As a corner property on a prominent junction, the proposed combination of wall, railings and Leylandii hedge at No. 11 would jar in the street scene as being out of character with the open and spacious character of the area. The need for privacy is referred to as a reason for the structure but most of the dwellings in
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the area do not have private front gardens and it is already clear from the Leylandii hedge that the proposed boundary treatment would draw the eye as an unwelcome and harmful departure from the established street scene.

6. I therefore conclude that the appeal proposal would have a harmful effect on the street scene and the Hangleton Manor listed buildings a short distance to the south. The character and appearance of the conservation area would not be preserved and I can see no public benefit that would outweigh the harm caused to the setting of the listed buildings and the conservation area, both of which are designated heritage assets.
7. Having regard to the above and the fact that the proposal would be in harmful conflict with Policies QD14, HE3 & HE6 of the Brighton Local Plan (Retained Policies March 2016) and the National Planning Policy Framework 2012 the appeal is dismissed.

Martin Andrews

INSPECTOR

Appeal Decision

Inquiry held on 1,2,3,4 November 2016

Site visit made on 4 November 2016 and 10 November 2016

by L Gibbons BA (Hons) MRTPI

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

Decision date: 4 January 2017

Appeal Ref: APP/Q1445/W/16/3147419

Wanderdown Road, Ovingdean, East Sussex BN2 7AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Peter McDonnell against Brighton & Hove City Council.
 - The application Ref BH/2015/04273, is dated 25 November 2015.
 - The development proposed is the erection of 9 houses and access drive.
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Decision

1. The appeal is dismissed and planning permission for 9 houses and access drive is refused.

Application for costs

2. At the Inquiry an application for costs was made by Brighton and Hove City Council against Mr Peter McDonnell. This application will be the subject of a separate Decision.

Procedural Matters

3. The application seeks outline planning permission with access to be determined at this stage. Landscape, appearance, scale and layout are reserved matters to be considered in the future.
4. Although some of the application plans¹ show a layout, sections and elevations, the appellant has indicated that these are for illustrative purpose. As part of the appeal process a revised layout and sections were submitted which indicate dwellings which would be one storey with accommodation in the roof. These were also illustrative. I shall determine the appeal on this basis.
5. As part of the appeal process, the appellant submitted additional information including a Stage 1 Safety audit and revised and additional drawings relating to the visibility splays, embankment, long and cross sections, road levels and swept path analysis. At the Inquiry the Council confirmed that this information addressed previous concerns in relation to highway safety, subject to suitable conditions and s106 contributions. Local residents also indicated that they were aware of the revisions. Taking account of the nature of the changes to the drawings I consider that no-one with an interest in the appeal would be prejudiced by my taking these plans into account.

¹ PL-001 Rev B; PL-002 Rev B; PL-003 Rev C and PL-004 Rev A

6. The Council indicated that had it been in a position to determine the application it would have refused planning permission for the following putative reasons: (i) that landscape character and appearance of the site would be harmed and the information submitted does not demonstrate that the setting of South Downs National Park (SDNP) and the Ovingdean Conservation Area would not be harmed; (ii) significant harm to the Site of Nature Conservation Interest (SNCI); (iii) risk to highway safety; and (iv) a lack of affordable housing and infrastructure contributions.
7. At the Inquiry the appellant submitted a copy of a signed Agreement under section 106 (s106) of the Town and Country Planning Act 1990 (as amended) dated 1 November 2016 in relation to contributions towards local transport improvements and affordable housing. I return to this matter below.
8. Following the close of the Inquiry the appellant submitted an appeal decision for 67 Falmer Road, Rottingdean². This was in support of arguments already made and the parties commented further. No party would be prejudiced by my taking the decision into account in my consideration of this appeal.

Main Issues

9. Draft issues were circulated before the Inquiry. Based on all I have seen and heard the main issues are:
 - i) The effect of the proposed development on the landscape character of the area and visual impact, having regard to the setting of the SDNP and the Ovingdean Conservation Area;
 - ii) The effect of the proposed development on biodiversity and protected species;
 - iii) Whether the particular contribution sought in respect of affordable housing is necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development; and,
 - iv) Whether there is a five year supply of housing land.

Reasons

Setting of the SDNP and visual impact

10. The site is located on the edge of Ovingdean village. The site which is part of Longhill Ridge has woodland to the east and a shrub and tree line along the western boundary. There is a high bank and the access to the site on the north boundary. The majority of the southern part of the site is wooded or scrub. The site is slightly more elevated towards the south with the land rising gently from the north, although there is a flatter middle section which incorporates an open field and manege. Then the land falls again towards the south. Part of the site has been recently used for the keeping of horses, although this use has ceased. The stables are permanent structures but they can only be seen when within the middle part of the site.
11. The SDNP is to the north of the appeal site on the opposite side of Ovingdean Road. In terms of the wider landscape character the South Downs is noted for

² APP/Q1445/W/16/3142069

its general absence of woodland, open and exposed landscape, accessible downland tops and panoramic views. More local landscape characteristics of this part of the Downs include large fields, woodland in small blocks, open downland, large open skies and a tranquil character.

12. The appellant considers that the National Park in this area does not provide the breath-taking views seen elsewhere within the Park and, as an example refers to features such as the Seven Sisters. Breath-taking views are defined as one of the special qualities of the SDNP. However, all the land within the SDNP met the criteria for designation even with extensive post war development on the edge of the Park. There are viewpoints such as Mount Pleasant to the north of the appeal site which allow panoramic views of the Downs and coast. Whether these are breath-taking or not will be based on the experience of those seeing these views.
13. The Landscape and Visual Impact Assessment (LVIA) produced by the appellant acknowledges that the site is within the setting of the SDNP. The Council accept the basis for the assessment and I see no reason to disagree with the methodology. I accept that the location of the appeal site within the setting of the SDNP does not necessarily indicate that the site is formally recognised in landscape terms. Ovingdean Road is busy and the site is not in a highly tranquil location.
14. I accept that the open area of the appeal site is not large in comparison to the open downland in the surrounding area. Yet it is of sufficient size especially seen from the bridleway to the north, Mount Pleasant and from the area known as The Bostle to the northeast that it does appear contiguous with the wider sequence of hills and downs. The open field gives it an identity and rural character separate from the adjoining development. The wooded area also frames the site. Paddocks are a common rural feature within the SDNP. The site is not intensively used in this respect in any event.
15. At the more local level, the Ovingdean section of the Urban Characterisation Study 2009 identifies low rise and low density scale of development, single storey bungalows along the ridge to larger 2 to 3 storey buildings. I acknowledge that the characterisation study does not specifically refer to the appeal site. Although the site is located within the urban fringe, I consider the woodland and open field have a rural character. It is a significant feature in the local context and in considering its role in the setting of the SDNP.
16. The proposal would involve the erection of nine dwellings. The indicative layout shows that the houses would be positioned slightly below the ridgeline but within the middle of the site, with open space to the north and woodland to the south. I acknowledge that the ecology of the site has influenced the proposed location of the development on the site.
17. The lower lying parts of the bridleway to the north of the appeal site would only provide very limited visibility of the houses largely due to planting on the north side of Ovingdean Road. However, the appeal site is highly visible in views from a number of viewpoints within the SDNP. These are from the higher parts of the bridleway and from the trig point at Mount Pleasant which is on permissive access land. The site can also be seen from various points from the area close to The Bostle which is to the north east of Woodingdean.

18. The LVIA identifies moderate or substantial negative effects as a result of the development as seen from Mount Pleasant. These effects would be greater when trees are not in leaf. At least the first four or five houses would be visible from Mount Pleasant. Even with the housing cut into the ridgeline the houses would be a dominant feature from this position and also at distance from views within The Bostle area to the north east.
19. The position of the steep slope adjacent to the road restricts views from this position. However, there is limited screening on the north boundary which does not materially restrict views from the key viewpoints. The frame of the woodland would also serve to accentuate the form of built development and this would intrude into this view of the rural landscape. The proposed planting strip on the northern part of the development would take some time to mature. In any event, I consider this would not be sufficient to soften the effect of the houses even if they were to be single storey dwellings.
20. The eastern wooded section of the appeal site is lower down on the slope and I consider this would not provide screening particularly for the first few houses of the development on the north part of the site. This would be largely due to the overall prominence of the ridgeline and the height of the appeal site relative to these viewpoints. I also consider that the use of certain materials in the construction of the houses would not be sufficient to mitigate the effect of the houses.
21. Although I note that permissive access land can be temporary, there is no current indication that this would be withdrawn. The bridleway alongside Mount Pleasant does appear to be well used as does the access land which gives access to the trig point. There are very good links to the wider network of paths and bridleways and as a result, I consider that the change in the landscape would be noticeable to a significant number of people.
22. From Mount Pleasant, the houses on Wanderdown Road can be seen. I have carefully considered the degree to which Wanderdown Road compromises the landscape character of the appeal site. However, to my mind it doesn't especially, as the houses are a sufficient distance away from the more central open area of the site and there is a clear distinction between the characters of the two areas.
23. The site is between the modern development of Wanderdown Road to the west and The Vale to the east. I accept that it is generally when seen on a map where the wider site can be fully appreciated as separating Ovingdean and The Vale to the north. There is no formal 'gap' designation. Nevertheless, the appeal site does provide a noticeable visual break when walking along Ovingdean Road between the two areas of built development. Although the housing would be set away from the road frontage the scheme would physically reduce the size of this gap.
24. At a more local level, when seen from the pavement on Ovingdean Road I accept that the proposed houses would not be highly prominent as they would be set away from the main road frontage. However, the alterations to the access would result in a significant change in the street scene and it would have a more suburban appearance in contrast to the rural quality of this particular part of Ovingdean Road.

25. I conclude that there would be a significant adverse effect on the landscape character and the proposal would be harmful to the setting of the SDNP. There would also be a negative effect in terms of the immediate visual impact relating to the access road.
26. I accept that there are some views towards the appeal site in which the appeal scheme would have a very limited effect. This includes from Falmer Road to the east which is on land that is considerably lower than the appeal site. The wooded slope of the gardens of the properties along The Vale is dense enough that it would provide sufficient screening even in winter to soften the effect of the proposed development from views along this road. However, this is not sufficient reason to justify the appeal scheme.
27. I have had regard to the role of the Urban Fringe Assessment (UFA) in the consideration of the appeal site as a potential location for development. The Brighton and Hove City Plan Part 1 (City Plan Part 1) 2016, is supported by the 2014 UFA. Policies CP1 and SA4 of the City Plan Part 1 refer to the 2014 UFA as being a material consideration. This document was tested as part of the evidence base for the City Plan Part 1. The 2014 UFA indicated that some part of the site could come forward for housing development on the northern part on the site, for up to five houses.
28. In 2015 there was an update to the UFA to further inform the preparation of the City Plan Part 2 and I note that it is not referred to in the City Plan. In any event, the 2015 UFA indicates that the appeal site could accommodate housing albeit at a reduced amount and that this should be on the northern part of the site. There are no proposals associated with either UFA assessment. Without these it is not possible to ascertain the impact they would have on the landscape character of the area or ecology of the site in comparison to the appeal proposal.
29. I accept that the Inspector in the Land at Ovingdean Road appeal³ considered that the UFAs gave significant endorsement to the principle of residential development. However, I note that the City Plan Inspector's report⁴ indicates that decisions on whether individual sites should be developed will be made through the City Plan Part 2 or through the development management process. To my mind therefore, although the UFAs indicate there is potential for housing on this site as reflected in the supporting text of Policy SA4 of the City Plan Part 1, it does not necessarily firmly establish the principle of development, and particularly not at the scale here.
30. For the reasons given above, I conclude that the proposal would cause harm to landscape character including the setting of the South Downs National Park and that it would have a negative visual impact. It would be in conflict with Policies SA4, SA5 and CP12 (bullet 5) of the City Plan Part 1. Policy SA4 sets out the criteria for development proposals within the Urban Fringe coming forward in advance of the City Plan Part 2, which would bring forward site allocations. The policies amongst other things, seek new development within the setting of the National Park that must be consistent with and not prejudice National Park purposes and it must respect and not significantly harm the National Park and its setting. It would be contrary to the National Planning Policy Framework

³ APP/Q1445/W/15/3130514

⁴ Report on the Examination Into the Brighton and Hove City Plan February 2016 (EIP Report)

(the Framework) where it relates to conserving and enhancing the natural environment.

Ovingdean Conservation Area

31. Further to the southwest of the appeal site is the Ovingdean Conservation Area. The Conservation Area includes a number of listed buildings such as the Church and Ovingdean Hall and Grange. It is mainly confined to the lower valley slopes and floor. It has a variety of building styles and has a strong rural character. Important views from the Church and Cattle Hill are referred to in the Ovingdean Conservation Area Character Statement. Due to its position on the highest part of the ridge above the village, I consider the appeal site does form part of the wider setting of the Conservation Area.
32. From Cattle Hill there are views towards the appeal site. An illustrative section provided as part of the appeal⁵ indicates that it may be possible to construct single storey dwellings with accommodation in the roof, which may not breach the tree line. However, I cannot be certain that this would be the case as the height of the tree line does vary somewhat and the illustration is not based on a survey of the tree heights. That said, taking account of the distance of the appeal site from the Conservation Area and the rows of intervening modern houses, I consider that the proposal would not have a harmful effect on the setting of the Conservation Area.

Ecology and biodiversity

33. The majority of the appeal site is within the Wanderdown Site of Nature Conservation Interest (SNCI). The site is designated for its ancient chalk grassland and chalk scrub and the species they support. When the site was designated in 1995, the species included round-headed rampion, autumn gentian, kidney vetch and Marbled White butterfly.
34. Round-headed Rampion which is nationally scarce and Catmint which is rare in the County have been found on the site. One marbled white butterfly was noted and the cinnabar moth has also been found to be present. There is also an active badger sett within the appeal site and there is evidence of foraging which indicated the continuing presence of badgers. The steep bank which runs along the front of the site is outside of the SNCI but it has been identified as having a more diverse range of plants representative of the chalk grassland species than within the SNCI.
35. The Council acknowledge the site's designation would be considered to be a local site in the hierarchy of wildlife sites as set out in paragraph 113 of the Framework. This refers to protection being commensurate with status and giving appropriate weight to a site's importance and contribution that they make to wider ecological networks. The Council considers that the site retains sufficient interest to retain the SNCI designation. Although originally indicating they would do so, the appellant does not now seek to challenge the designation.
36. As part of the appeal proposal, the appellant submitted a final ecological assessment and badger survey⁶. The Council refers to a number of concerns about the ecological surveys of the site undertaken by the appellant. They

⁵ PRV3

⁶ Inquiry documents 15 and 16

consider this may have resulted in the appellant underestimating the quality of the appeal site in terms of its ecological importance. A number of residents raised concerns in relation to a partial clearance of the site on the ecology and biodiversity of the site and whether this has affected the results of the appellant's surveys. Nevertheless, I must deal with the circumstances before me.

37. The ecological assessment includes a number of recommendations which would include retention and enhancement of the northern end of the site subject to an agreed management plan. It is proposed to further improve the ecological features of the bank at the front of the site once changes to accommodate the access road have been implemented. Woodland and scrub outside of the appeal site would be managed on a non-intervention and light touch basis. The badger sett would be protected during the construction phase. The stables, some hard standing and the manege currently occupy some of the SNCI and do not exhibit the characteristics of the grassland or scrub. These would be removed as part of the proposal.
38. In respect of the effect on badgers, I accept that there would be some loss of foraging habitat. However, there was no evidence to demonstrate that this would have a negative effect on the presence of the species on the site and that badgers used this site exclusively without travelling elsewhere. Foraging habitat would be retained within the rest of the SNCI.
39. The common lizards found on the site would need to be relocated. There is the potential for predation of lizards by cats, although there are residential areas close to the appeal site and it seems to me that the likelihood of a significant increase in cat predation is low. There are also proposals for the translocation of lizards, reducing potential cat predation, bat boxes to help increase bat activity and to ensure that external lighting would not cause harm to bats. These are all matters that could be secured by suitable conditions were other matters acceptable.
40. Part of the SNCI is subject to a Management Plan which was put in place when planning permission was granted for the stable and manege. Horses do not graze the open part of the site any longer and the site is mown instead. The Council considers that agreement could be reached with the landowner to ensure that the Management Plan is implemented correctly. The appellant argues that the Management Plan is not enforceable. I consider that it is not certain that the Council could ensure the future management of the site in this manner and is a factor to be weighed in the balance.
41. Nevertheless, the proposal would result in a loss of around a quarter of the designated SNCI including some of the semi-improved chalk grassland. There would also be some temporary loss of chalk grassland during the construction of the access and re-grading of the bank. I have given careful consideration to the survey of the habitat and the arguments made in respect of identification of grassland species and other matters. I conclude that the loss of the land to development would have a minor adverse effect on the interest of the SNCI. However, when taking into account the level of harm caused by the loss of part of the SNCI, I consider that the mitigation and proposals for future management would result in an overall neutral effect on the ecology and biodiversity of the site.

42. For the reasons given above, I conclude that the proposal would not be in conflict with Saved Policies QD18 and NC4 of the Brighton and Hove Local Plan (LP) 2005. These amongst other things indicate that planning permission will not be granted within an SNCI except in certain circumstances including where a proposal can be subject to conditions and which requires measures to avoid any harmful impact of a proposed development on species and their habitats and that where practicable developers will be expected to enhance the habitat of the respective species. It would not be contrary to paragraph 118 of the Framework which sets out that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity.

Affordable Housing

43. The s106 agreement makes provision for an affordable housing contribution. Policy CP20 of the City Plan Part 1 requires an affordable housing contribution from all types of residential development where the net gain is over 5 units. A sliding scale is applied which means that a contribution of 20% will be sought from sites between 5 to 9 units.

44. Following a Court of Appeal decision in May 2016, Government policy as set out in the Written Ministerial Statement (WMS) of 28 November 2014 in relation to planning obligations and affordable housing is that for 10 units or less and which have a maximum combined gross floor space of no more than 1000 sq. metres no affordable housing or tariff style contributions should be sought. This is a material consideration of considerable importance and weight. There is conflict between the national threshold relating to the provision of affordable housing in the WMS and paragraph 31 of the Planning Practice Guidance (the Guidance) and the local thresholds set out in Policy CP20.

45. The Council refer to over 24,000 households on the housing register with a large number of these in priority need. High house prices, average costs of housing and household incomes and a physically constrained location are referred to in the evidence presented by the Council. I note that small sites make up 50% of all completions within the City. These details were not challenged by the appellant.

46. Policy CP20 was supported by a viability assessment and the policy allows for site specific circumstances to be taken into account. On the basis of the evidence before me, I consider that the WMS does not outweigh the development plan in this instance. I have also had regard to the fact that the appellant does not indicate that the contribution would have a negative effect on the viability of the proposed scheme. Therefore, I conclude that the contribution is necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development. It would meet the tests at paragraph 204 of the Framework.

Five year supply

Base date

47. Paragraph 47 of the Framework indicates that local planning authorities should identify and update annually a supply of deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land.

48. The appellant considers that the Council are unable to demonstrate a five year supply of housing land as the five year supply is not up to date. The Council's published 5 year housing land supply covers the period 1 April 2015 to 31 March 2020 and is based on data published in July 2016. The base date of this information is 1 April 2015. The Council calculate that there is a 5.4 years supply of housing against the housing requirement set out in the City Plan Part 1.
49. The Framework does not specifically refer to a forward looking period. The Guidance confirms that local planning authorities should ensure they carry out their annual assessment in a robust and timely fashion, based on up to date and sound evidence. The Council indicate housing completion information is available for the period 2015/2016 but that other data such as commitments and sites from the most recent call for sites is not. As a result it would not be possible to calculate a five year supply for the period 2016 to 2021.
50. As a general rule, I accept the appellant's submission that a more recent base date is to be preferred. The Council's approach does not relate to a forward looking five year period. However, the appellant proposed using the Strategic Housing Land Availability Assessment (SHLAA) on a pro-rata basis as an alternative to the Council's approach to provide an assessment of the supply for 2016 to 2021. This does not take account of capacity on a site by site basis and to my mind does not amount to a satisfactory alternative for calculating the supply.
51. The Council's information does relate to a five year period and follows on from the period referred to in the City Plan which was adopted very recently. Furthermore, the data that the Council have provided appears to be comprehensive and anything else would be conjecture. Therefore I conclude that the Council's use of the 2015 to 2020 period is appropriate in this instance.

Buffer and deliverability of sites

52. The Council's housing requirement follows a phased approach and was agreed as being appropriate by the City Plan Inspector. The appellant refers to a buffer of 20% being applied although did not present any evidence in this regard. The Council refer to the past 15 years which takes account of the most recent poor market conditions. The Council under-delivered in 8 years but over-delivered in 7 years. The recent periods of under-delivery appear to coincide with subdued housing markets. I see no reason to depart with the conclusions set out in the EiP Report which indicated that an appropriate buffer is 5%.
53. In terms of site deliverability, the Council's witness refers to data taken from the 2015 SHLAA. Although the appellant raises questions about the assumptions that are made about sites and percentages, the SHLAA itself was not challenged by the appellant. I accept that the appellant raised concerns about the deliverability of Toad Hall Valley (site DA7). However, no evidence was presented in this regard.
54. In terms of the appeal decision for 67 Falmer Road, Rottingdean, the Inspector refers to the Council being unable to demonstrate a five year supply of housing land. I have not been provided with the details of the matters that were before that Inspector in respect of the five year supply. In any event, I have

considered the proposal before me on the specific circumstances and evidence provided by the parties.

55. Based on the evidence before me, I am satisfied that the Council can demonstrate a five years supply of housing land for the purposes of this appeal. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also sets out that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing land. However, given that I have found that the Council can demonstrate a five year supply of housing land, paragraph 49 is not engaged in terms of the policies being out of date.

Other matters

56. As well as affordable housing, the s106 agreement also makes provision for a contribution towards local transport improvements. I have considered this in the light of the statutory tests contained in Regulation 122 and 123 of the Community Infrastructure Levy Regulations (CIL) 2010. This would be for bus stop improvements and crossing improvements. Residents consider that the bus stop improvements may be limited in the effectiveness and that local residents may not necessarily use them. Nevertheless, they would also offer potential benefits for visitors without access to a car and those who would choose to use the bus service. The Council confirmed there have been no other contributions made to these facilities. The s106 agreement would meet the relevant tests and I have taken it into account in coming to my decision.
57. Local residents raise concerns relating to highway safety. This includes concerns about horse riders accessing the bridleway opposite the appeal site and potential accidents at the brow of the hill on Ovingdean Road close to the appeal site. Residents also refer to the road being used as a rat run for local traffic. However, the Council and the Highway Authority no longer object to the scheme subject to suitable conditions. Based on observations on my site visit and the evidence before me, I see no reason to disagree with their conclusions this matter.

Conclusion and balance

58. The Framework indicates that there is need to boost the supply of housing. The City Plan Part 1 sets a minimum housing requirement which is considerably below that of the full objectively assessed housing need of the area. However, this was considered acceptable to the City Plan Inspector subject to progress being made on the City Plan Part 2 amongst other things. I have found that the Council is able to demonstrate a five year supply of housing land, which is a significant consideration in this appeal. Paragraph 14 of the Framework is not engaged and the relevant policies of the City Plan Part 1 and the LP are not out of date.
59. The proposed development would have some benefits. The proposal would make a contribution towards market housing and the affordable housing contributions weighs in favour of the appeal scheme. I have also found that the scheme would not cause harm to the setting of the Ovingdean Conservation Area, ecology and biodiversity or highway safety. However, these matters do not outweigh the harm to the landscape character and setting of the South Downs National Park and the negative visual impact.

60. I have had regard to all other matters raised, but have found nothing to alter my conclusion that the appeal should be dismissed.

L Gibbons

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Hilary Woodward, Senior Planning Solicitor, Brighton and Hove City Council

She called:

Dr K Cole	East Sussex County Council
Jonathan Puplett	Brighton and Hove City Council
Virginia Pullan	East Sussex County Council
Tim Jeffries	Brighton and Hove City Council
Roland Brass	GL Hearn Ltd

FOR THE APPELLANT:

Jonathan Clay, Barrister, instructed by Martin Carpenter, Enplan

He called:

Simon Colenutt	ECOSA Ltd
Phillip Russell-Vick	Enplan
Martin Carpenter	Enplan

INTERESTED PERSONS:

J Craddock	Ovingdean Residents and Preservation Society
A Gilbert	Local resident
Cllr M Mears	Brighton and Hove City Council
J Richards	Local resident
M Richardson	Local resident
R Smith	Chair, Ovingdean Residents and Preservation Society
B Thompson	Local resident
J Wright	Local resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

1	Appeal notification letter circulation list
2	Statement of Common Ground dated 21 October 2016
3	Tree Preservation Order (No 2) Land at Badgers Walk and Long Hill, Ovingdean - Map
4	R Smith statement on behalf of Ovingdean Residents and Preservation Society
5	Map and missing pages (63-82 and A2) from the Integrated Landscape Character Assessment (Updated) Final report 2005
6	S106 agreement dated 1 November 2016
7	Council registration list – Planning (Listed Buildings and Conservation Areas) Act and Regulations 1990 – for applications 8 January 2016
8	J Craddock statement and photographs
9	S Colenutt Proof of Evidence document reference sheet
10	Colenutt A Lizard Landscape Preliminary Ecological Appraisal December 2014

- 11 Colenutt B ECOSA Walkover Assessment January 2015
- 12 Colenutt C Draft ECOSA updated Ecological Assessment September 2016
- 13 Colenutt D Draft ECOSA Confidential Badger Report September 2016
- 14 Colenutt E Letter from Dr K Cole 25 September 2016
- 15 Colenutt F Final ECOSA updated Ecological Assessment October 2016
- 16 Colenutt G Final ECOSA updated Confidential Badger Report October 2016
- 17 Bat Conservation Trust, Chapter 8 Bat Activity and Back-tracking Surveys 2016
- 18 Bat Conservation Trust, Bat Activity Surveys 2012
- 19 Opening submissions on behalf of the Appellant by J Clay
- 20 Opening statement on behalf of the Council by H Woodward
- 21 ECOSA Ltd Summary Proof of Evidence by S Colenutt
- 22 Evaluating Local Mitigation/Translocation Programmes: Maintaining Best Practice and Lawful Standards
- 23 Brighton and Hove Independent 21 August 2015 Public Notice
- 24 Copy for advert dated dated 11 January 2016
- 25 Officer report for BH2011/03586
- 26 Decision notice for BH2011/03586
- 27 Planning (Listed Buildings and Conservation Areas) Act 1990 Chapter 9, Part 1, Chapter IV, section 67
- 28 Planning (Listed Buildings and Conservation Areas) Act 1990 Chapter 9, Part 2, section 72
- 29 Planning (Listed Buildings and Conservation Areas) Act 1990 Chapter 9, Part 1, Chapter IV, section 66
- 30 Suggested conditions of the Council
- 31 Drawing 02-591-000 Post positions for site visit
- 32 A Gilbert – Wildlife Corridor Speech
- 33 N Smith – Statement on planning application BH2016/05530
- 34 N Smith information on SAFE (St Aubyns Field Evergreen)
- 35 M Mears statement
- 36 Closing statement Ovingdean Residents and Preservation Society
- 37 Drawing 02-591-004 proposed site calculations
- 38 Draft conditions – Appellant condition/comment
- 39 Summary Proof of Evidence by M Carpenter
- 40 Inquiry notification letter
- 41 Closing submissions on behalf of the Council by H Woodward
- 42 Closing submissions on behalf of the Appellant by J Clay
- 43 Application for costs by the Council

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- 44 Appeal Decision APP/Q1445/W/16/3142069

Appeal Decisions

Hearing held on 21 December 2016

Site visit made on 21 December 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 11th January 2017

Appeal A Ref: APP/Q1445/W/16/3155980 19 Oriental Place, Brighton & Hove, BN1 2LL

- 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 Stephanie Harding against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04087, dated 5 November 2015, was refused by notice dated 8 April 2016.
 - The development proposed is described as appeal form as '*Conversion of Hotel (C1) to form 4no. studio flats, 3no. one bedroom flats and 1no. two bedroom maisonette (C3) with associated alterations including rear extension at second floor level*'.
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Appeal B Ref: APP/Q1445/Y/16/3155981 19 Oriental Place, Brighton & Hove, BN1 2LL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) against a refusal to grant listed building consent.
 - The appeal is made by Mrs Stephanie Harding against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04088, dated 5 November 2015, was refused by notice dated 8 April 2016.
 - The works proposed are described on the appeal form as '*Conversion of Hotel (C1) to form 4no. studio flats, 3no. one bedroom flats and 1no. two bedroom maisonette (C3) with associated alterations including rear extension at second floor level*'.
-

Decisions

1. The appeals are dismissed.

Preliminary Matter

2. The descriptions in the above header are taken from the appeal form. At the Hearing the main parties agreed that it was this description that should be used rather than that on the application form. I see no reason to disagree and have proceeded on this basis.
 3. This decision letter deals with two appeals; Appeal A for planning permission and Appeal B for listed building consent. Whilst subject to different parts of planning legislation, given the similarities involved in first main issue, and to avoid repetition, I have dealt with both appeals within this single decision letter.
-

Main Issues

4. The main issues are:
 - Whether the proposed development would preserve the special architectural or historical interest of the Grade II* listed building or its setting; and whether it would preserve or enhance the character or appearance of the Regency Square Conservation Area; and,
 - The effect of the proposed development on the living conditions of future occupiers, with specific regard to light, outlook and living space.

Reasons

Heritage assets

5. The appeal building is a Grade II* listed building located within the Regency Square Conservation Area. It is a four storey over basement building, situated in an end of terrace location, with elevations facing onto Oriental Place, Sillwood Street and Montpelier Road. In the main, neither party raises specific concerns over the proposed internal works. Given that specific details of such matters can normally be dealt with by condition and the detailed examination of the potential to retain historical features I see no reason not to concur. I have therefore focussed upon the external changes sought.
6. The Neo Hotel (also known as 19 Oriental Place) dates from circa 1827, having been designed by AH Wilds, who is known for designing large parts of the city. Part of the significance of the conservation area and listed building derives from this historical association and also from the overall architectural style within the wider conservation area which is typical of the expansion of this part of the city in the late 1700s and early 1800s. In terms of the appeal building, there is two storey wing to the rear of the building facing Montpelier Road. Neither party is entirely sure of the date it was erected, but evidence suggests it was in place by 1875 and this seems a reasonable date for this wing.
7. This part of the listed building benefits from features such as laurel wreath moulding beneath a parapet cornice and a shallow canted oriel window at first floor. I saw during my site inspection that the outline of the south flank elevation in particular has a distinctive profile due to a chimney flue that steps down from the main building into the rear wing with an attractive sloped wall. When looking both southwards (towards the seafront) and northwards along Montpelier Road, this chimney flue is a quirky feature within the roofscape, and helps add character to both the listed building and the wider conservation area. Visually it leads the viewer's eye down from the chimney to the parapet with its detailed cornice and this reinforces the subservient relationship between the main body of the building and the rear wing element. It is from factors such as these, that the significance of the listed building also derives.
8. The appeal scheme seeks the erection of a second floor extension which would sit upon most of the flat parapet roof area of the rear wing. There is an existing extension on this part of the building, which has a shallow depth and flat roof and is used as a store room for the hotel. The proposed extension would have a hipped slate roof with timber sliding sash windows and be rendered and painted, so as to match the finish of the rest of the building, as shown on drawing 9984/02 Revision F. It would also require the closing of an

- existing window opening and turning this into a 'blind' window. The floor area would serve proposed Flat 7, and be the only floor area serving that flat.
9. However, due to the height and depth of the proposed extension, it would result in a prominent addition to two storey rear wing of the building. Whilst I note that the eaves and ridge height would be lower than that of the main body of the building, both would still add significant bulk to the rear wing of the building. The result would be a substantial increase in the overall height of the rear wing, and the introduction of further feature onto the flat roof. In particular, the proposed hipped roof would sit meekly above the strong cornice parapet and thus appear somewhat odd against the more ornate parapet. What is more, with the further storey arising from the appeal proposal, rather than appearing as a subservient rear wing of the building the extension would visually challenge the prominence of the historic core of the listed building.
 10. The extension would also detract from the canted oriel window and detailed parapet and erode the profile of the chimney flue so that from the north, looking towards the sea, the viewer would see little more than the end of the chimney stack. From the south on Montpelier Road, you might be able to see the outline of the curved wall, but this would be against the backdrop of the further bulk added to the rear of the listed building. As a result, the chimney flues role as a contributing feature to this part of the conservation area and in gently leading the eye from the historic core of the building to the wing would be severely and detrimentally affected.
 11. Accordingly, the proposal would have a negative impact on both the listed building and its setting, and on the conservation area. As a result it would fail to preserve the special interest of the Grade II* listed building and fail to preserve the character of the Regency Square Conservation Area, as sought by Sections 16(2), 66(1) and 72(1) of the PLBCA Act 1990, as amended. Paragraphs 131 to 134 of the *National Planning Policy Framework* (the Framework) indicates degrees of harm that may arise namely 'substantial' or 'less than substantial', although both are not formally defined.
 12. In this case, given that the element of the proposal which would affect the listed building is limited in scale to one part of the building, I find that it would result in no more than less than substantial harm. However, less than substantial harm does not mean less than substantial planning objection, and I give considerable importance and weight to the desirability of preserving heritage assets, as set out in the PLBCA.
 13. Paragraph 134 indicates that the less than substantial harm should be weighed against the public benefits. In this case, I heard from the appellant that they consider that the public benefits include the provision of accommodation towards the housing land supply of the area, the shortage of accommodation of this type within the city and thus the scheme contributing towards this type of accommodation, that the proposal would increase the viability of the project, that the building would be used rather than left empty (and that this is a more viable use of the building), that earlier conversions have obscured internal features such as chimney breasts, and that this scheme would help better reveal these elements and that there may be better economic benefits from long term residents compared to short-term visitors to the city.
 14. Notwithstanding my considerations on the standard of accommodation proposed in the next section, I acknowledge that there is a need for smaller

units of accommodation within the city and such a factor would be a limited public benefit in general terms. In terms of viability, there is little coherent information before me that demonstrates that the scheme requires the creation of eight units rather than seven or nine to be viable, for example. Indeed, given the dearth of information in this respect I cannot be sure whether or not the scheme represents a viable scheme in itself, or that the numbers proposed are critical to its success financially.

15. In terms of revealing internal features, this would be primarily limited to the private occupiers of the building, and therefore chiefly a private rather than public benefit. Lastly, the long- versus short-term occupancy of the building is noted. However, there is little before me to substantiate this claim, and correspondingly this factor can only be afforded little weight. When taken as a whole, I find that the public benefits cited, do not outweigh the less than substantial harm I have identified.
16. Accordingly, I therefore conclude that the proposed development would fail to preserve the historic features of the listed building and its setting, and fail to preserve the character of the conservation area. As such, the proposal would conflict with Policies QD14, HE1, HE3, and HE6 of the *Brighton and Hove Local Plan 2005* (BHLP) and Policy CP15 of the *Brighton and Hove City Plan – Part One 2016* (BHCP), which, amongst other aims, seek to ensure that developments do not have adverse effect on the architectural and historic character or appearance of the exterior of the building and that the city's historic environment will be conserved and enhanced in accordance with its identified significance.
17. It would also conflict with the Policies of the Framework, which beyond those cited above, also include conserving heritage assets in a manner appropriate to their significance and that great weight should be given to a heritage asset's conservation.

Living conditions

18. In terms of living conditions, the main areas of conflict between the principal parties revolves around the floor size of the flats numbered 2, 3, 5 and 7 on the submitted drawings, and the standard of accommodation in the proposed basement flat 2 in terms of light and outlook. I consider these separately before coming to an overall conclusion.
19. In terms of floor areas or a space standard, in March 2015 DCLG issued the *Technical housing standards – nationally described space standard* which complimented the *Written Ministerial Statement of 25 March 2015* (WMS). Put simply, the National Described Space Standard (NDSS) sets out the minimum requirements for the Gross Internal (floor) Area of new dwellings. The proposal in this case seeks express planning permission to eight flats from a hotel use, and therefore the NDSS is of some relevance.
20. The Council does not have a specific relevant local plan policy relating to space standards; although I note that Policy CP19 of the BHCP indicates that the Council intends to apply these in Part 2 of the BHCP. The WMS is clear in that '*Decision takers should only require compliance with the new national technical standards where there is a relevant current Local Plan policy.*' This does not, however, negate consideration of the evidence put before me by the main parties. Furthermore, Paragraph 17 of the Framework, which sets out the core

- planning principles, includes that planning should seek a good standard of amenity for occupiers.
21. The Council has provided a table at 7.2.8 of their Statement of Case. This shows the proposed flats, their type, approximate floor area in m² and the minimum size set out in the NDSS. At the Hearing, the appellant agreed that the figures provided were broadly reflective of the sizes of the proposed units. My attention was drawn to the fact that none of the proposed flats would meet the minimum gross internal floor area as set out in the NDSS.
 22. What is more, as approximate sizes, Flat 7 would have a floor area of 20.8m², Flat 5 of 30.2 m², Flat 2 of 26m², and Flat 3 of 27.7m². The figure set out for such one bedroom, one person dwellings is 37 m² in the NDSS. I acknowledge the appellant's case that the Council does not have a specifically adopted development plan policy for implementing the NDSS, and that the nature of the listed building is that compromises on space are sometimes required in order to achieve a satisfactory heritage outcome.
 23. However, not only would all of the proposed flats fall below the government's minimum NDSS, but Flats 2, 3, 5, and would fall significantly below this. Whilst I have applied the government's minimum figures only as a guide, it is clear that the flats in this case would fall considerably below this minimum national standard. The accommodation would therefore be severely restricted in terms of its gross internal floor area and this would result in unacceptable living conditions for future occupiers, and especially so in the case of Flats 2, 3, 5 and 7.
 24. I acknowledge the appellant's evidence in the form of a letter from one local estate agent indicating that in their view, there is a 'need' for units of this size within the City. However, upon exploration of this at the Hearing, the appellant conceded that the word should actually have been 'demand', as a specific need had not been identified in planning terms. What is more, this 'demand' and associated observations appeared to be based on little more than mailing lists sent to customers with no technical evidence submitted by the appellant to support these assertions. As such I can give such assertions no more than negligible weight. In any case, this does not negate the fact that the level of internal living space would be extremely limited nor does it provide justification that the living space proposed would provide a good level of amenity for future occupiers.
 25. In terms of light and outlook, the Council's concerns relate to the provision of an existing single window to serve proposed Flat 2. I saw during my site inspection that the flat would be located within part of the basement, which is below pavement level. I was able to see both out of and into the window serving this room, which is currently shown on the drawings as a treatment room. I saw that for occupiers of this room, outlook would be restricted to a steep angle outwards to the sky when standing in front of the window; although much of this was obscured by the seven storey 'Osprey House' building situated on the opposite side of Sillwood Street.
 26. Access to light and outlook from this window is further reduced by the short brick plinth around the light well (presumably to stop pedestrians from inadvertently falling into the light well). The combination of the steep angle looking out, Osprey House opposite and the brick plinth, means that occupiers of this flat are unlikely to receive much daylight through this north facing

window and have an outlook that would be restricted to small patches of sky in between the bodies of passing pedestrians. Whilst there is no detailed analysis of the level of light entering the room, it was clear from my site visit that unless standing directly in front of the window, future occupiers would have an extremely limited and materially harmful level of outlook and light from this single window.

27. I therefore conclude that the proposed development would result in material harm to future occupiers through the unacceptable levels of living space, outlook and light provided. Accordingly, the proposal would conflict with Policy CP19 of the BHCP and Policy QD27 of the BHLP, which, amongst other aims, seek to ensure that any change of use does not cause loss of amenity to proposed occupiers. It would also conflict with the Policies of the Framework, which include that planning should always seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Other matters

28. At the appeal stage, the Council indicated that commuted sum of £344,500 was sought for affordable housing under Policy CP20 of the BHCP. This matter was discussed at some length at the Hearing, and I heard evidence from both parties on it. The appellant has not submitted a legal agreement in this case (also known as a planning obligation), as they consider that both the sum sought, and the reasons it is sought for, should be calibrated in light of the *Written Ministerial Statement on support for small-scale developers, custom and self-builders* of the 28 November 2014, which indicates that for developer contributions on sites of 10-units or less and which have a maximum combined gross floor space of 1000 square metres affordable housing should not be sought.
29. I have found that the proposal is unacceptable in respect of the main issues identified, and whether or not one party or the others case in respect of affordable housing is correct, would not alter this fact. Accordingly, I have not considered this matter in greater detail, as I have found the scheme unacceptable on the main issues.

Conclusion

30. For the reasons given above, and having taken into account all matters raised, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stephanie Harding	Appellant/Owner
Richard Crook, RIBA, AA Dip, AABC	Conservation Architect
Adrian Moore, MRTPI	Planning Consultant (Director Parker Dann)
Maggie Henderson MA (Hons)	Historic Buildings Archaeologist
Mark Smith BSc	Affordable Housing Consultant (Affordable Housing 106)
Darren Dunkley	Fox and Sons (Estate Agents)

FOR THE LOCAL PLANNING AUTHORITY:

Helen Hobbs	Planning Officer
Tim Jefferies	Principal Planning Officer (Conservation)

Documents submitted at the Hearing:

By the local planning authority:

1. Policy CP 20 - Affordable Housing of the BHCP
2. Developer Contributions Technical Guidance, June 2016
3. Statement of Common Ground – dated 13 December 2016 by appellant and 19 December 2016 by the LPA
4. Policy CP7 Infrastructure and Developer Contributions of the BHCP
5. DVS letter dated 15 April 2016 to Planning Policy Team

By the Appellant:

1. Technical housing standards – national described space standard, DCLG March 2015
2. Document entitled Neo Hotel, 19 Oriental Plan, Brighton BN1 2LL, AH – Appendix 2, relating to planning obligations
3. Appeal Decision Ref 3152366, Hove Business Centre, BN3 6HA

Appeal Decision

Site visit made on 6 December 2016

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 11th January 2017

Appeal Ref: APP/Q1445/W/16/3155262

18 Circus Street, Brighton, BN2 9QF

- 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 Michel Blencowe against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01641, dated 27 April 2016, was refused by notice dated 4 July 2016.
 - The development proposed is described as '*demolition of existing building and erection of three storey building comprising 3no one bedroom flats (C3)*'.
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. The property 38 Grand Parade is a Grade II listed building located to the rear of 18 Circus Street. Section 1(5) of *The Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended (PLBCA), states that '*listed building means a building which is for the time being included in a list compiled or approved by the Secretary of State...and for the purposes of this Act – (a) any object or structure affixed to the building; (b) any object within the curtilage of the building, which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building.*
3. At the appeal stage, I sought the views of the main parties as to whether the appeal building, No 18 Circus Street, was either affixed to No 38 Grand Parade which is a Grade II listed building, or within its curtilage, for the purposes of the PLBCA. No response was provided by the appellant within the set timetable. I have taken into account that the Council's 'on balance view' is that S.1(5)(a) does not apply, and that they cannot provide a definitive answer on S.1(5)(b).
4. On the basis of the evidence before me, the appeal building is a structure affixed to the listed building as envisaged by subsection (a), by virtue of the attachment of the link structure as shown on drawings YO160 – D02 and YO160-A02. What is more, although it may have been in a separate use at the time of listing in 1971, it appears as though 18 Circus Street was an ancillary building of the listed building from at least 1875, with the earliest documented separate use shown from a street directory in 1951. The appellant's heritage statement supports this by indicating that the appeal building is a 'historic

building¹. On the basis of the evidence before me, the appeal building should be considered, at the very least, as a 'curtilage' listed building. In accordance with the PLBCA, the appeal building should be considered in the same manner in which a listed building is considered.

5. Accordingly the main issues are:

- Whether the proposed development would preserve the special architectural or historical interest of the listed building and its setting, or the settings of nearby listed buildings, and whether it would preserve or enhance the character or appearance of the Valley Gardens Conservation Area; and,
- The effect of the proposed development on the living conditions of existing and adjoining occupiers with specific regard to light, overlooking, outlook and internal floor areas.

Reasons

Heritage assets

6. The appeal site is occupied by a two storey building located to the rear of the Grade II listed building 38 Grand Parade. The appeal building is referred to as 18 Circus Street, and when viewed from that street it is characterised by a two storey brick building with gambrel style roof and gable end facing Circus Street. The street scene on the western side is characterised by a mixture of mainly single or two storey buildings, which back onto other parts of the terrace facing Grand Parade. Visually, their height and form means that they are subservient to the buildings facing onto Grand Parade, which in many cases are a storey or so above those facing Circus Street. The rears of Nos 37, 40 and 41 Grand Parade (which form a 19th century terrace) are visible from Circus Street, with the buildings themselves also Grade II listed.
7. The significance of both the listed buildings and the conservation area derives from the fact that historically Circus Street was laid out in the early 19th Century as a fairly narrow thoroughfare. The area has evolved over time, as has the settlement of Brighton, but it is clear that the appeal building was most likely used for some form of stabling or as a workshop; although it is unclear as to whether this was in association with the buildings facing Grand Parade or not, or when any such link it ceased. Nonetheless, the evidence suggests that the building was most likely ancillary to use of No 38 Grand Parade, with no separate address registered until 1951. The appeal building plays an important role in understanding the subservient relationship between the grand buildings facing onto Grand Parade and the lesser buildings serving these to the rear.
8. This can be seen in the subservient height of the buildings along the western side of Circus Street in relation to those facing Grand Parade further to the west, and the overall two storey form which has been retained along the western edge of Circus Street. This lower overall height along Circus Street in comparison to that along Grand Parade makes an important contribution to the significance of the listed building, the settings of nearby listed buildings and the character of the conservation area.
9. The appeal scheme seeks the demolition of the building at 18 Circus Street and its replacement with a three storey building. There is little justification for the

¹ See Heritage Statement, Dated 2 April 2016 -Paragraph 5.1, Page 13

loss of this historic building within the Valley Gardens Conservation Area, beyond that set out in the conclusions section of the appellant's Heritage Statement, dated 2 April 2016 at paragraph 6.1. In the main, these refer to the derelict nature of the building and problems such as water ingress and that it is at risk of collapse. However, it has not been explained in detail as to why the building has fallen into such a state of disrepair, nor is there any detailed assessment that the economic costs of such repair work would be unacceptable.

10. What is more, the proposed design would see the introduction of a three storey building which would tower above the single storey rear projection to the north of the site and the mainly two storey form found elsewhere along Circus Street. The effect visually would be to obscure the rear elevations of the listed buildings. More importantly, it would seek to challenge the visual prominence of the rear elevation of No 38 and the important subservient relationship between the historic ancillary service buildings and the grander houses facing the main thoroughfare on Grand Parade. As a result the proposal would detract from the significance of the listed building and its setting, and the conservation area. It would therefore fail to preserve the character or appearance of the conservation area and fail to preserve the special interest of the listed building; the desirability of both for which I give considerable importance and weight, as envisaged by Sections 66(1) and 72(1) of the PBLCA.
11. The *National Planning Policy Framework* (the Framework) sets out that great weight should be given to the asset's conservation and that a proposal may lead to 'substantial' or 'less than substantial harm' at paragraphs 132 to 134. Although, neither term is defined, to result in a 'substantial' level of harm one would typically expect that it would need to have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced. The proposal here would result in the unjustified demolition of part of a listed building (whether by virtue of its attachment or curtilage status) and the introduction of a new building that would be at odds with the character of this part of the conservation area in this location. However, the historic heart of the listed building would remain unaffected. As such, the loss of 18 Circus Street would amount to no more than less than substantial harm to the listed building in this case as set out in Paragraph 134 of the Framework.
12. In such circumstances, the Framework sets out that this harm should be weighed against the public benefits. I note that the proposal would provide three new residential units and that there is shortage of housing within the City. However, this scale of provision whilst laudable, when set against the annual target of 660 units per year, can be afforded no more than little weight in favour of the proposal given its scale. I have also been directed to the poor state of the building. However, there is little cogent evidence which explains why there is no viable use of the heritage asset nor has it been demonstrated that the nature of the heritage asset prevents all reasonable uses of the site. In the absence of such evidence, there appears to be little justification for the loss of the building, and thus this does not weigh as a public benefit in favour of the scheme. Accordingly, I do not find that these benefits would outweigh the less than substantial harm I have identified.

13. I therefore conclude that the proposed development would fail to preserve features of special architectural or historic interest of the listed building and its setting, and would fail to preserve the character of the Valley Gardens Conservation Area. The proposal would therefore conflict with Policies HE6 of the *Brighton and Hove Local Plan 2005* (BHLP) and Policy CP15 of the *Brighton and Hove City Plan - Part One March 2016* (BHCP), which, amongst other aims, seek to ensure that the city's historic environment will be conserved and enhanced in accordance with its identified significance, giving the greatest weight to designated heritage assets and their settings.
14. It would also be contrary to the Policies of the Framework, which beyond those already cited include conserving heritage assets in a manner appropriate to their significance. It would also fail the overarching statutory duties set out in Sections 66(1) and 72(1) of the PLBCA.

Living conditions

15. In terms of living conditions, the Council is concerned that the close proximity of the proposed and existing building would be such that it would lead to a detrimental level of overlooking. However, the floor plans clearly show that, in the main, windows would be situated to overlook Circus Street. What is more, in densely built-up urban areas it is not uncommon for openings to be located in close proximity to each other. I have not been directed to any specific windows where there would be a face to face relationship or where occupiers would specifically overlook each other, beyond the Council's concern over the scale of development. In such circumstances, I do not find that the proposal would result in a materially harmful level of overlooking or loss of outlook.
16. With regards to light, I appreciate that the building would be taller than the current building. However, the Council has not identified which windows or living areas might be affected by a materially harmful loss of light. Whilst it is likely that there would be some loss of light for occupiers in buildings to the north of the site from the additional storey, given that the first building in this direction is a 24 hour café, it is unlikely that occupiers would suffer from an unacceptable loss of either sun- or day-light into living areas of that building. Given such factors, I do not consider that the proposal would lead to an unacceptable loss of light for neighbouring occupiers in this case.
17. In terms of internal floor areas, as the appellant points out, all three flats would meet the minimum internal floor area set out in the Nationally Described Space Standard (NDSS) set out in the March 2015 DCLG issued *Technical housing standards - nationally described space standard* which complemented the *Written Ministerial Statement of 25 March 2015* (WMS). The Council does not have a specific relevant local plan policy relating to space standards; although I note that Policy CP19 of the BHCP indicates that the Council intends to apply these in Part Two of the BHCP.
18. The WMS is clear in that '*Decision takers should only require compliance with the new national technical standards where there is a relevant current Local Plan policy.*' In any case, the proposal would provide a floor area in excess of the minimum standard, and in such circumstances I find that the proposal would provide an adequate level of internal floor space for future occupiers.
19. I therefore conclude that the proposal would not result in an unacceptable impact on the living conditions of existing and adjoining occupiers with specific

regard to light, overlooking, outlook and internal floor areas. Accordingly, the proposal would accord with Policy QD27 of the BHP, which amongst other aims, seeks to ensure that any development does not cause loss of amenity to proposed, existing and/or adjacent users or occupiers.

Conclusion

20. Whilst I have found in favour of the appellant on the second main issue, this does not overcome the harm identified in respect of the first main issue.
21. For the reasons given above, and having taken into account all matters raised, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR



Appeal Decisions

Site visit made on 19 December 2016

by D E Morden MRTPI

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

Decision date: 6 January 2017

Appeal A: APP/Q1445/C/16/3146395 17 Bernard Road, Brighton, BN2 3ER

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr D Rayward against an enforcement notice issued by Brighton & Hove City Council.
- The enforcement notice, reference 2013/0590, is dated 10 February 2016.
- The breach of planning control as alleged in the notice is the change of use of the property from a dwelling house (C3) to use as a house in multiple occupation.
- The requirement of the notice is to cease the use of the property as a house in multiple occupation.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

Decision: I direct that the Notice be varied by substituting the word 'Three' for the word 'Two' in paragraph 6. Subject to that variation the appeal is dismissed and the enforcement notice is upheld.

Appeal B: APP/Q1445/W/15/3140558 17 Bernard Road, Brighton, BN2 3ER

- 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 Millhouse Enterprises Limited against the decision of Brighton & Hove City Council.
- The application Ref BH2015/03534, dated 1 October 2015, was refused by notice dated 13 November 2015.
- The development proposed is the change of use from a C3 dwelling to a C4 shared dwelling for 6 persons.

Decision: The appeal is dismissed.

Preliminary Matters

1. Dealing with two procedural points on Appeal A, firstly, the Council stated that the time for compliance should have stipulated 3 months. There was an administrative error and the requirement should be varied to state 3 months. Secondly, in the officers' report there is a comment from the Council's legal department that the Notice only requires the use as a sui generis HMO to cease and does not refer to Class C4 HMOs. It is suggested that a further Notice is required to deal with this and hence the current Notice was issued.
2. In my view that is not necessarily correct (although it is a matter of law and for the Courts do determine if necessary). The Use Classes Order (UCO) has

separated out HMOs where between three and six people reside and put them into a use class (Class C4); they are commonly referred to as small HMOs. Any other HMO (i.e., 7 people and upwards) does not come within any use class and to that extent it is like every other use that does not fall within any of the specified use classes in the UCO – it constitute sui generis use.

3. Whether or not the 2014 Notice did not cover all HMOs simply because it described it as a sui generis HMO providing 7 bedrooms, the current notice steers clear of any wording about bedrooms, people living there or anything else that could be taken as restrictive in what it includes.
4. Turning to the s78 appeal, I saw at my visit that the alterations listed as proposed in the application the change of the ground floor front room from a bedroom into a shared living room and the provision of a 6 bedroom HMO had in fact already occurred. I shall, therefore deal with this appeal on the basis that it concerns an application under s73A of the Town and Country planning Act 1990 (as amended) – one where the development has already been undertaken.

Appeal B – s78 appeal - APP/Q1445/W/15/3140558

Main Issues

5. I consider that the main issues in this case, having regard to the prevailing policies in the adopted development plan, are the effect of the development on the character of the surrounding community, secondly the effect of the development on the living conditions of adjoining and nearby residential occupiers and thirdly, whether an adequate standard of accommodation is being provided for the occupiers of the property.

Planning Policy

6. There has been a change to the status of the policies referred to in the enforcement notice and refusal notice. The refusal was based on the saved policies in the Brighton & Hove Local Plan 2005 (LP) and the emerging policies of the submission stage City Plan Part One (CP) as well as the NPPF and all other material considerations.
7. Following the Inspector's report on the City Plan in February 2016 it was adopted by the Council on 24 March 2016 and is now the Development Plan for the City. With the adoption of the plan (as opposed to being an emerging plan at the time of the last appeal in June 2015), Policy CP21 now carries full weight. The policy relates to student accommodation and notes that changes of use to an HMO will not be permitted where more than 10% of dwellings within a 50m radius of any application site are already in such use. The objective is to ensure that a suitable range of housing types remain available in the area and to maintain mixed and balanced communities. The policy is in conformity with paragraph 50 of the National Planning Policy Framework (the Framework) which promotes a mix of housing types to suit local demand.
8. Policy QD27 of the LP is a saved policy and still therefore carries full weight in determining this appeal. The policy states that permission will not be granted for development where it would cause a material nuisance and loss of amenity to, amongst other things, adjacent occupiers and existing residents generally. Both policies should be afforded significant weight in determining this appeal.

Reasoning

9. In dealing with all the issues, whilst this has to be considered as an appeal afresh, it is also relevant for me to take into account the dismissal of the enforcement appeal on this site made as recently as June 2015 (Ref: APP/Q1445/14/2225896). I acknowledge that that appeal concerned the use of the property as an HMO with seven bedrooms and there was no shared living room but the principle of considering this type of development in this area of the town has not changed (paragraph 15 of that decision). Also, bearing in mind that the room changed from a bedroom to the shared living room is the ground floor front room, the problem of nuisance to immediately adjoining occupiers set out in the last decision has also not changed (paragraph 17 of that decision).
10. The change of use proposed would in normal circumstances be 'permitted development' by virtue of the Town and Country Planning (General Permitted Development) Order 2015 and not therefore require planning permission to be obtained. Problems as the Council sees it in retaining a suitable mix of housing types and retaining family homes led to the making of an Article 4 Direction Order in April 2013 removing that permitted development right. Unless there was a significant problem such an Order would not be proposed and confirmed.
11. The appellant questioned the 10% figure and also the fact that a 50m radius is used in which to look. These guidelines are now within a recently adopted policy and should be given full weight. It may always appear to be arbitrary when a minimum or maximum is set down anywhere but one cannot escape from the fact that one has to set levels against which to measure things (in the same way that the GPDO sets out limits of size for various permitted developments). It is easy to question such guidelines and maximum/minimum criteria but those set out in this policy have been through the local plan consultation and examination process so it is correct to use them in deciding if permission should be granted.
12. Similarly it is always easy to say that something is just over the limit and/or that one more will make little or no difference to the percentage and not have a significant detrimental effect on the future mix of housing types. The line has to be drawn somewhere however, and whilst the percentage of 10% does not appear to be exceeded by the same amount that it was when the previous appeal was dismissed it is still exceeded before this proposal is added to the mix. Further when the acceptable percentage is 10% then any extra one in a high density area will always appear as a very small increase in overall percentage terms.
13. I consider that allowing this appeal would have a harmful effect on and undermine the Council's aim of maintaining a balanced supply of housing types and supply of family dwellings and accommodation to rent unless a strict control is kept over such proposals for change of use such as this. Allowing this appeal would further increase the imbalance currently existing in the mix of housing types available in Brighton.
14. The appellant's representations did make a brief reference to a lack of a 5 year housing supply on the basis that there was a shortfall in the planned housing provision in the Draft City Plan as modified in 2015 and the Objectively Assessed Housing Need for the plan period. Since that statement was produced (it accompanied the appeal in December 2015) the local plan

Inspector has published her report (in February 2016) and the plan has been adopted, including Policy CP21. The Inspector's report sets out reasons for the apparent shortfall in particular the poor market conditions that have existed in the area for some time and the considerable number of restraints there are to new development/redevelopment in the area. It is also recognised that the planned annual target has in fact only been reached in three of the last 20 years in any event. Very little information has been provided in the representations and in these circumstances it would not be appropriate for me to conclude that a Local Plan was adopted in March 2016 was instantly out of date in respect of housing provision.

15. Turning to the second main issue I acknowledge that there are now 6 bedrooms proposed rather than the 7 that existed at the time of the last appeal. Whilst there is one less bedroom it does not overcome the objections found by the previous inspector in my view. A lounge is now provided but it does not really provide sufficient room for all six people to sit in it at the same time and there is no guarantee they would want to in any event. I consider it is still likely that occupants would spend a lot of time in their own rooms. These are mainly on the upper floors and adjoin bedrooms of the adjacent properties; this more intensive use would cause increased noise and disturbance for those living in the adjacent dwellings in the terrace.
16. The appellant refers to the powers of the Council's Environmental Department and statutory noise nuisance action that could be taken if there was a problem. This is very difficult to instigate and the level of noise necessary for such action to be successful is, in my view, much more than one should have to suffer if the disturbance is being heard in adjoining bedrooms. Permission should not be granted for something that is likely to be so intolerable that it would need to be pursued through that course of action. There are letters of objection to this proposal from those living within two or three doors of the appeal site and they raise objections which in my view should carry weight in deciding whether or not this appeal should be allowed.
17. As stated by the previous inspector in paragraph 9 of her decision the type of accommodation has led to complaints about night time comings and goings in noisier and larger groups than would normally be the case for such a property occupied by a family. Reducing the occupants from 7 to 6 will make no material difference to the level of disturbance caused in my view and nothing has been put forward to convince me that I should reach a different conclusion to the previous inspector on this issue.
18. The third main issue concerns the actual accommodation provided and in particular the two rooms in the attic/roof space on the top floor. The appellant stated that each room provided at least 9sq m floor space with room for a bed, sink, wardrobe or chest of drawers, and a study desk. Whilst that is true of four of the units it is not true of the two rooms in the roof space. The chest of drawers was a very small bedside cabinet squeezed between the sink and single bed in one room and some shelves in the other with no room for a decent sized desk. The floor space at full standing height was extremely limited amounting to only about 3sq m in one of the rooms.
19. I acknowledge that the premises may have been given a licence by the licensing authority department of the Council (and for when the property had 7 bedrooms and no shared lounge area) but I agree with the Council that the

accommodation on the top floor is poor and there is really only space for one room at a similar standard to the four on the lower floors. Overall the amenity space for the occupants of the property is extremely limited and the two rooms on the top floor are very poor; the development should not be permitted.

20. Taking all these factors into account I conclude that the development is contrary to policy CP21 of the CP and Policy QD27 of the LP and should be refused. There are no planning conditions that would ameliorate the objections sufficiently to allow permission to be granted and I shall dismiss this appeal.

The appeal on Ground (g) – Appeal A

21. On ground (g) the appellant claimed that the period for compliance should be extended to six months. The property is let to international students on assured short hold tenancies; they are studying at the University of Brighton International College. They are here in the UK alone with no family support network that could provide them with alternative accommodation if they were forced to vacate the property in the short term. They would become homeless.
22. The Council stated that it considered that three months was sufficient and that the landlord ought to be able to find alternative accommodation in the short term. Further the time should not be based upon what is the academic year for the students as the appellant was aware when he let the building that it was not authorised.
23. A time limit should be reasonable from the day a notice is confirmed and does not take into account that the use may have been going on for some considerable period of time. No information is provided regarding the current tenancy agreement (the one existing at the time the notice was issued was for 35 weeks expiring at the end of August 2016). I also note that the agreement is with the College rather than with the occupants.
24. In these circumstances I acknowledge that this is where the occupants live and whilst the College it seems has a responsibility to find them alternative accommodation that may not be easy. I am also aware, however, that the use is causing a nuisance to those living nearby and should not continue any longer than necessary.
25. Taking these factors into account I conclude that three months should give sufficient time for alternative accommodation to be found if the occupants are indeed scheduled to remain in Brighton for longer than that and the appeal on this ground fails accordingly. I will uphold the notice as varied (from 2 months to 3 months as per paragraph 1 of this decision).

D E Morden

INSPECTOR

Appeal Decision

Hearing held on 13 December 2016

Site visit made on 13 and 14 December 2016

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 11 January 2017

Appeal Ref: APP/Q1445/W/16/3152980

The Astoria, 10-14 Gloucester Place, Brighton BN1 4AA

- 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 OCM KSH Resi Brighton SARL against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/01471, dated 24 April 2015, was refused by notice dated 28 January 2016.
 - The development proposed is 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 70 one, two three and four bedroom self-contained residential units (C3) and incorporating commercial units (A1/A2/B1) 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

1. The appeal is allowed and planning permission is granted for 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 70 one, two three and four bedroom self-contained residential units (C3) and incorporating commercial units (A1/A2/B1) 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 at The Astoria, 10-14 Gloucester Place, Brighton BN1 4AA in accordance with the terms of the application, Ref BH2015/01471, dated 24 April 2015, subject to the conditions set out in Schedule 1 of this Decision.

Preliminary Matters

2. The Council refused the application due to the alleged standard of residential accommodation proposed. Since then, discussions have taken place and the scheme has been amended such that the Council's concerns are now met. Additionally, agreement between the Council and the appellant has been reached in relation to contributions that the scheme can support. These and other considerations are set out in Statements of Common Ground in which the Council confirms that it no longer opposes the scheme, subject to the conditions and obligations referred to.

3. The Council has previously granted planning permission and listed building consent for redevelopment of the site. The listed building consent remains extant and is not the subject of consideration within this appeal.

Main Issue

4. Based on the evidence before me, the main issue in this appeal is the effects of the proposal on the living conditions of neighbouring residents, as raised by residents in writing and at the hearing

Reasons

Background

5. The existing building is vacant and in a run-down state. It has evidently been vacant for some time and is a matter of concern locally. It is described as a blight on the Valley Gardens Conservation Area. The principal of its loss has been accepted by the Council.
6. The extant planning permission and listed building consent represent a fall-back which the appellant could implement if this appeal were to fail. This is a material consideration in the determination of the appeal.

Noise and Disturbance

7. The proposal includes the main entrance to the residential units at the corner of the proposed building, next to the junction of Gloucester Place with Blenheim Place. Within the proposed Blenheim Place frontage, the proposal would contain a Community Room and residential bin stores for the proposed development. Local residents, particularly some within properties on Blenheim Place, are concerned that the location of the entrance and the use of the Community Room and the bin stores would give rise to unacceptable levels of noise and disturbance, close to their homes.
8. The appeal site is within a busy urban environment wherein additional new homes are encouraged. I accept that the proposed building will generate greater foot-fall locally and some along Blenheim Place. Account must be taken also of the former use of the building as a cinema and a bingo hall, as well as the extant permission. The precise location of the entrance to the building was contested by residents and it was suggested that moving it further along the Gloucester Place frontage would have the effect of reducing the likely pedestrian movements along Blenheim Place. Whilst it is not for me to consider revisions of this nature and my decision must be based on what is proposed, I do not consider that moving the entrance would have any effects on the use of Blenheim Place by pedestrians. In any event, I do not consider that residents of the proposal would be likely to generate noise and disturbance that would have an unacceptable effect on neighbours. On the basis of what I saw, I do not find that the greater number of people passing through the area to get to the appeal site would inevitably give rise to any unreasonable noise or disturbance.
9. Blenheim Place is a narrow road which contains residential properties to the side and directly opposite the appeal site. Some of these neighbouring properties would be a short distance from the appeal site. The proposed Community Room would be located within this section of the proposal and neighbours fear that its use would generate unacceptable levels of disturbance.

I note that the completed S106 Agreement obliges the developer to submit, gain the agreement of the Council and adhere to a Community Room Management Plan which would cover details relating to lettings, hours of use and targeted marketing. In addition, an agreed suggested condition would limit its use to hours between 10:00hrs to 18:00hrs on Mondays to Saturdays. I am satisfied that, with such an agreement and condition in place, the living conditions of neighbours would not be unreasonably affected. In this respect also I note that the extant planning permission contains a similar facility and I consider the proposal to be no worse, and in any event, acceptable.

10. The proposed residential bin store is also to be located in this section of the building. It would be similar to the extant permission in this respect also. I have carefully considered the effects of this and the movement of bins along Blenheim Place. I consider that the movement of bins along the short stretch of Blenheim Place once a week would not give rise to significant noise or disturbance, and would be insufficient to warrant the refusal of planning permission. Based on its normal use for domestic waste storage and collection, I do not consider that it would give rise to disturbance to neighbours. Importantly, it is very similar to the approved scheme in this respect and I conclude that the appeal scheme would be no more likely to lead to disturbance.

Privacy, Outlook and Loss of Light

11. Residents on the opposite side of Blenheim Place expressed concerns at the effects of the proposal on light, privacy and outlook. I was able to take the time at the site visit to enter those properties and to view the appeal site and the surroundings from within these and other properties.
12. In terms of light and outlook it is clear to me that there would be a benefit to those residents because the rear section of the proposed building would be significantly lower than the existing substantial structure. Both outlook and daylight would be enhanced as a result of the scheme, with respect to these residents.
13. With regard to privacy, there was much discussion at the Hearing regarding the use of obscure glass in certain windows within the proposal. I am satisfied that with such measures in place, there would be little likelihood of overlooking from the proposal into neighbouring properties. This is true of those flats on the opposite side of Blenheim Place and also of the houses and their rear terraces on Blenheim Place as it was suggested that the windows in the western elevation could be of obscure glass. I was also able to judge the likely effects on properties and residents at Cheltenham Place and my view is that there would be no unacceptable effects in relation to this issue.

Other Matters

14. In relation to security, discussion at the Hearing concluded with the suggestion that the side access way between the appeal site and properties on Blenheim Place could be fitted with a suitable security gate. The gate could be designed so that it could be used and operated in an emergency and I am satisfied that it would offer an acceptable level of security here. It appeared that residents were satisfied with the suggested measures.

15. The proposal contains provisions for wheelchair accessible units which would be secured by condition. Again, this appeared to satisfy the concerns of residents in this respect.
16. A number of local residents were critical of the level and manner of public consultation undertaken by the Council. Whilst it is not for me to comment on the Council's actions specifically, I am satisfied that the revisions which were undertaken within the life of the appeal were the subject of proper consultation and that, ultimately, sufficient opportunity was given for interested parties to comment on those revisions.

Planning Agreement

17. The Council and the appellants have submitted a completed agreement in relation to the proposed development. The appellants have willingly entered into the Agreement and have offered no specific evidence to counter or cast doubt on the Council's requests and their supporting documents and evidence.
18. In relation to Affordable Housing, I am satisfied that the agreed evidence before me indicates that the scheme can support the sum specified and that this is justified in order to meet the Council's requirements. Therefore, I shall take this into account for this appeal.
19. The proposal would be likely to give rise to additional demand for school places which cannot be accommodated locally, according to the evidence and in accordance with the Council's CIL Regulations compliance statement. The Council's evidence is not specific about which individual school(s) would be targeted by the contribution but they include a small number of possible candidates. The Council points out that decisions on additional provisions would be taken by the Council's education department at a time when the funds become available and so cannot be precise at this point in time. Although the S106 Agreement defines "education contribution" widely (and so attracts criticism from the appellant) Schedule 7 of the Agreement obliges the Council to use the education contribution in relation to a small number of specifically named schools which are closest to the appeal site. In these circumstances I consider that the agreed financial contribution is necessary to mitigate the effects of the scheme and complies with the CIL Regulations and I shall take account of it in determining this appeal.
20. In order to comply with the Council's Developer Contributions Technical Guidance (June 2016) (DCTG) and so that local employment opportunities in the construction industry are promoted, the contribution and strategy are justified and I shall take account of it in this appeal.
21. Local recreation facilities will be in greater demand as a result of the additional residents generated by the proposal. The justification for the recreational facilities contribution is given in the DCTG and the Agreement, at Schedule 7, specifies that the sum would be allocated to facilities within the locality. In order to ensure that these facilities can cater for the additional pressure of use placed on them by the proposed development, the contribution is justified and I have taken account of it for this appeal.
22. In order to encourage better use of alternative modes of transport to the private car, and so that such alternatives are available and used by future residents of the scheme, the Sustainable Transport Contribution is also

justified. The DCTG sets out the justification and scale of the contribution which I consider to be appropriate and necessary, on the basis of the evidence before me and from my examination of the scheme. Therefore, I take this contribution into account in determining this appeal.

23. The proposed off-site highways works set out in the Agreement are necessary as a direct result of the proposal and should be completed prior to occupation of the development. In addition, I note that they were previously approved as part of the extant scheme. I have taken account of this in relation to this appeal. The Agreement also includes the provision for the planting of trees in the vicinity of the site which are to be lost as a result of the highways works. This is also necessary and justified and I have taken account of it.
24. Due to the characteristics of the scheme, the appeal site and its surroundings a Construction Environmental Management Plan is necessary in order to minimise disruption in the area during the construction process. As set out above, a Community Room Management Plan is necessary in order to ensure that this facility does not give rise to disturbance to existing and future residents. In view of the loss of the listed building, I agree that it is necessary to include suitable provision for recording the existing building and, if practicable, the retention and incorporation of original features within the proposed development. These matters are all necessary and justified and I have taken them into account for this appeal.
25. The Council has produced a CIL compliance statement which states amongst other things, that the pooling restrictions within Regulation 123 have not been breached for any of those relevant matters within the Agreement. When specifically challenged by the appellant, the Council confirmed that the statement had been prepared by the Council's Principal Planning Officer responsible for compiling and monitoring information in this respect. On the basis of the evidence submitted, I am satisfied that the Council's evidence can be relied upon.
26. Therefore, overall in relation to the Agreement, I conclude that its provisions are necessary in order to make the scheme acceptable, directly relate to the development and are fairly and reasonably related in scale and kind to the development. As a result, it complies with Regulations 122 and 123 of the CIL Regulations and I shall have regard to all of its provisions in determining this appeal.

Conditions

27. I have taken account of the advice in the PPG in considering the need for conditions in relation to this appeal. I have included the standard commencement condition and also a condition requiring compliance with the approved plans so that there is certainty in relation to the approved form of the proposal. As the appeal site is within a prominent position within the Conservation Area and considerable thought is given to its design, I have included a condition which requires the Council's approval for external cables, wires, aerials, pipework (except rainwater pipes as maybe shown on the approved drawings) meter boxes or flues, which would be on elevations facing the highways. So that the scheme has an acceptable appearance and effect on the locality I have also included conditions relating to external materials, the submission and approval of additional sample elevations including architectural

- details, landscaping, enhancement of the nature conservation interest of the site, approval of photovoltaic panels.
28. So that adequate provision for refuse, recycling and cycle storage for the residents and businesses of the proposal is provided in a timely manner, I have attached suitable conditions. In order to protect the living conditions of neighbours, conditions relating to not using the flat roofs as amenity areas/gardens, obscure glazing of facing windows, the hours of loading and unloading for the businesses, noise levels from any plant or machinery, exact details of the privacy screens and the hours of use of the community room are necessary and justified. I have widened the use of obscure glazing in rooms in the southern elevation as a result of what I saw at the site visit and the potential to look down through the roof-lights of the bedroom on the opposite side of Blenheim Place. I have also included a condition which would have the effect of preventing the commercial units from being the subject of changes of use outside the permitted A1, A2 and B1(a) uses referred to in the permission, as other uses may give rise to unacceptable effects on residents.
29. Concern had been expressed at the likely effects of using the inner courtyard as communal gardens on the living conditions of future residents; I accept those concerns and include a condition to prevent its use other than for access. Due to noise from the main road frontage, a condition to require the implementation of an agreed scheme to protect residents of the proposal from that noise is required. In order to enhance security conditions relating to a security gate and associated lighting on the west and south elevations are necessary. I have also included a condition which would require the Council's agreement of any other external lighting for the scheme.
30. I agree that a condition to agree provisions to deal with any unexpected contamination is justified. So that the scheme provides a suitable level of accessible accommodation a condition requiring 4 units to be wheelchair accessible is justified. In order to promote sustainable transport choices and to prevent parking congestion conditions requiring a travel plan and a scheme to exclude residents from residents' permit schemes have been included. In order that suitable surface and foul drainage is provided it is necessary to require the implementation of agreed schemes in these respects. So that the Council's sustainability aims are met I have included conditions relating to BREEAM certification, energy efficiency and water consumption.

Conclusions

31. Subject to the conditions and obligations referred to, I am satisfied that the proposal would have no unacceptable effects on neighbouring residents nor on the locality generally. I have agreed that the existing building represents a considerable detraction within the conservation area and its loss has already been accepted by the Council. In my consideration the scheme before me would bring about a considerable enhancement of the area, bringing substantial public benefits; these are sufficient to outweigh the loss of the existing listed building. In these circumstances, the appeal is successful.

S T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

H Townsend
C Sutton
S Bareham
C Davis

FOR THE LOCAL PLANNING AUTHORITY:

G Giles
S Stammers

INTERESTED PERSONS:

M Horn
F Chipchase
E Volant
S Johnston
I Prest
A Colvin
H Nichols
C and C Hocken
F McNeilage
D Stefill

DOCUMENTS SUBMITTED AT THE HEARING

1. Certified copy of S106 Agreement
2. CIL Compliance Statement
3. Copy of statement made by M Horn

Schedule 1 Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: A(PL)300A; A(PL)301A; A(PL)302A; A(PL)303B; A(PL)304B; A(PL)05B; A(PL)306A; A(PL)307A; A(PL)308A; A(PL)309A; A(PL)019; A(PL)311A; A(PL)312D; A(PL)313C; A(PL)314A; A(PL)315A; A(PL)316B; A(PL)036A.
3. Unless otherwise agreed in writing by the Local Planning Authority, no cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.
4. 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.
5. The flat roofs shall not be used as a roof garden, terrace, patio or similar amenity area.
6. The south facing windows to the living room to Unit 21, Bedroom 1 to Units 38, 47, 56, 64 and 70, the west facing first and second floor windows to Units 23, and the second floor west facing windows of Units 24, 25, 26, 27, 28 and 29 shall be obscure glazed up to 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such. The west facing windows serving the corridors to the rear of units 10 to 12 and 24 to 29 shall be obscure glazed in their entirety and thereafter permanently retained as such.
7. The inner courtyard shall be used only for the purposes of gaining access to the communal TV room and Gymnasium, Units 01-06 (inclusive), and for maintenance or emergency purposes. The inner courtyard shall not be used as a communal garden, patio or similar amenity area.
8. No loading or unloading of vehicles shall take place to the commercial premises except between the hours of 07.00 and 19.00 Mondays to Saturdays and 08.00 and 18.00 on Sundays.
9. Any noise from all plant or machinery 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(A) 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.
10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer

has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

11. A minimum of four wheelchair accessible dwellings shall be provided to be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.
12. The development hereby permitted shall not be first occupied until the secure cycle parking facilities have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use at all times.
13. The development hereby permitted shall not be occupied until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.
14. No development other than demolition shall commence until a scheme to protect the residential dwellings from noise disturbance has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of glazing and ventilation systems in accordance with the recommendations set out in the 7th Wave Acoustics Planning Noise Assessment dated 13 April 2015, and be implemented in full prior to the first occupation of the residential properties and retained as such thereafter.
15. No external lighting shall be installed without the prior approval of details that shall be submitted to the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and be retained as such thereafter.
16. No development other than demolition shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the landscaping of the courtyard which shall include details of materials, hard surfacing, means of enclosure, and all planting.
17. 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 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. All hard landscaping and means of enclosure shall be completed before the development is occupied.

18. No development other than demolition shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
19. No development other than demolition shall take place until sample elevations at 1:20 scale showing all the architectural elements of each elevation of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with the approved details.
20. No development other than demolition shall commence until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include the provision of sparrow, swift and bat boxes and be implemented in full prior to the occupation of the development hereby approved.
21. No development approved by this permission other than demolition shall be commenced 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 and sewerage works shall be completed in accordance with the details and timetable agreed.
22. Prior to first occupation of the development a Travel Plan (a document setting out a package of measures tailored to the needs of the site and aimed at promoting sustainable travel choices and reduce reliance on the car) for the development shall be submitted to and approved by the Local Planning Authority. The Travel Plan shall be approved in writing prior to first occupation of the development and shall be implemented as approved thereafter. The Travel Plan must be reviewed on an annual basis by undertaking a travel survey and updating the travel plan where appropriate.
23. No photovoltaic panels shall be installed until full details have been submitted to and approved in writing by the Local Planning Authority. The installation shall be carried out in accordance with the approved details and thereafter retained as such.
24. Unless otherwise agreed in writing by the Local Planning Authority, the non-residential development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential 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.
25. 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).

26. 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.
27. Notwithstanding the details shown on the approved drawings, none of the residential units hereby approved shall be first occupied until details of the privacy screens on the southern elevation have been submitted to and approved in writing by the local planning authority and implemented. The scheme shall be implemented in accordance with the approved details and thereafter retained in that form.
28. No part of the development shall be first occupied until details of a security gate and any associated fencing/railings which shall be constructed between the proposed building and No 4 Blenheim Place, have been submitted to and approved in writing by the local planning authority and implemented. The details shall include the mechanism for operating/locking/releasing the gate in normal use and in the case of an emergency. The scheme shall be implemented in full accordance with the agreed details and thereafter retained in that form.
29. No part of the proposal shall be first occupied until details of external lighting for the southern and western elevations have been submitted to and approved in writing by the local planning authority and implemented. The scheme shall be implemented in accordance with the agreed details and thereafter retained in that form.
30. The Community Room hereby approved shall not be used except between the hours of 10:00hrs to 18:00hrs Mondays to Saturdays
31. The ground floor commercial units fronting Gloucester Place shall be used for purposes within Classes A1, A2 and B1(a) only.

Appeal Decision

Site visit made on 17 January 2017

by David Hogger BA MSc MRTPI MCIHT

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

Decision date: 19 January 2017

Appeal Ref: APP/Q1445/D/16/3165096

81 Dean Court Road, Rottingdean, Brighton BN2 7DL

- 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 and Mrs Steve Barnes against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05190, dated 2 September 2016, was refused by notice dated 21 November 2016.
 - The development proposed is described as the erection of a detached pitched roof garage with home gymnasium.
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Decision

1. The appeal is allowed and planning permission is granted for three rooflights, a third side window in the south-east elevation and a door to the front of the garage with home gymnasium, at 81 Dean Court Road, Rottingdean, Brighton BN2 7DL in accordance with the terms of the application Ref BH2016/05190 dated 2 September 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 1332014/01 RevA;
 - 2) No extension, enlargement or alteration to the garage with home gymnasium, as provided for within Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995, 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.
 - 3) The garage with home gymnasium shall only be used for purposes incidental to the main dwelling.

Preliminary Matter

2. I saw on my visit that the external construction work has already been undertaken and I understand that the enlargement of the garage and the installation of the pitched roof were approved under an earlier permission (BH2014/02968). The Council, in the Officer's Report, confirms that the application subject to this appeal is to 'regularise' the rooflights, the third side window and the 'front' door. In these circumstances I have described the

proposed development as being those parts of the scheme that currently do not have the benefit of planning permission (but which have been constructed) – namely the front rooflight, the two side rooflights, the third window in the side elevation, and the door to the front.

3. As referred to above, planning permission has already been granted for the extension to the garage, the replacement of a flat roof with a pitched roof, and two windows and a door in the side elevation. In the Officer's Report, at the time permission for that development was considered, it is stated that 'the building would not result in an unacceptably dominant building in this location'; and that because of changes in levels the proposed development would 'appear subordinate' to both the host property and No 2 Welesmere Road. Finally the Officer concludes that the proposal 'would not significantly harm the visual amenity of the street scene'. I agree with those conclusions and have determined the appeal on that basis.

Main Issue

4. The main issue is the effect of the development (as described in paragraph 2 above) on the character of the local street scene.

Reasons

5. There is a range of dwelling styles and sizes in the area but most of them are two storey in height and comparatively large. In comparison the outbuilding is single storey in height and from Welesmere Road (onto which it fronts) the inclusion of the double garage doors clearly indicates that this is an ancillary building. The ancillary nature of the building is further emphasised by the fact that what the Council describes as a 'front door' is not directly accessed from the driveway but is located behind the boundary wall of the house, giving it the appearance of being primarily accessed from the garden of the house.
6. In terms of the rooflights and the third side window, because of their size, design and siting, they do not significantly change the appearance of the building as already permitted and do not introduce detrimental visual elements into the street scene.
7. Because of its size and design the building appears as ancillary to the host property and not as a separate dwelling. In any event fears that the building could be used as a separate unit of accommodation can be assuaged by the imposition of appropriate conditions to ensure that the building does not become an independent residential unit. An approach that is accepted by the appellant.
8. Saved policy QD14 of the Brighton and Hove Local Plan requires new development to be well designed and sited, taking into account the character of the area. Supplementary Planning Document 12: Design Guide for Extensions and Alterations, implies that detached outbuildings that have a 'cluttering and visually harmful effect on a neighbourhood' should be avoided. For the reasons given above I am satisfied that the development is in accordance with the Council's policies.

Conditions and Conclusion

9. The Council has requested conditions firstly requiring the external materials to be used to match those in the existing building and secondly that development

should be undertaken in accordance with the approved plans. In terms of materials, the works that are subject to this appeal have already been completed and therefore the 'materials' condition is not necessary. Although it appears that the external works have been completed in accordance with the submitted plan, in order to provide certainty that the development is acceptable in planning terms, the imposition of the Council's second suggested condition is justified.

10. The Council has suggested two other conditions restricting further changes to the building without planning permission and requiring the building only to be used in connection with the host dwelling. These are necessary to ensure that the living conditions of nearby residents are protected and to prevent harm to the character and appearance of the street scene. They meet the tests set out in paragraph 206 of the National Planning Policy Framework and I impose them accordingly.
11. For the reasons given above the appeal should be allowed.

David Hogger

Inspector

Appeal Decision

Site visit made on 20 December 2016

by **P N Jarratt BA DipTP MRTPI**

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

Decision date: 11 January 2017

Appeal Ref: APP/Q1445/C/16/3152807

Ground floor flats 1 and 2, 22 Brunswick Street East, Hove, BN3 1AU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Justina Grigiate against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice, numbered 2014/0448 was issued on 18 May 2016.
 - The breach of planning control as alleged in the notice is the change of use from two garages (sui generis) to 2 no self-contained dwelling units (C3) and the installation of new garage doors.
 - The requirements of the notice are:
Cease use as 2 no self-contained dwelling units
Remove front elevation ground floor glazed doors and reinstate garage doors, 2x pairs of timber doors with 6 glazed windows above (see image of Google Street View, captured July 2012).
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (d) and (g) of the Town and Country Planning Act 1990 as amended.
 - **Summary of Decision: Appeal dismissed and notice upheld**
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Preliminary matters

1. The appellant or her agent did not attend the site visit but I was able to carry an unaccompanied site inspection for part of the property as the tenant of one of the flats provided access to his flat.
2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

The site and relevant planning history

3. The appeal premises are on the ground floor of a three storey building subdivided into flats to the rear of a Grade I listed building on Brunswick Square. There are two flats on the ground floor, the subject of this appeal. The flat to which I had access was a small self-contained studio with shower room and cooking facilities, accessed from a common corridor running along the side and rear of the appeal property. Both flats have unauthorised French window double doors fronting on to the street which are also the subject of the notice.
 4. Planning permission was granted in 2001 for the change of use of the ground floor garages to residential use although this has expired. In April 2016, a part retrospective application was refused for the conversion of the ground floor garages to form two self-contained units with associated alterations.
-

The appeal on ground (d)

5. The appellant claims that it is too late to take enforcement action against the conversion of the garages into two self-contained dwellings as this occurred in excess of four years prior to the issue of the notice on 18 May 2016.
6. In support of her case, the appellant has submitted the front pages of two assured shorthold tenancy agreements. The first relates to Flat 1, 22 Brunswick Street East, let by Achieving Perfection Ltd to Mrs Inge Hallam. It is dated 15 February 2012 with a rent of £525 per month. The second is for Ground floor south, 22 Brunswick Street East, let to Mr Nerijus Buskus, dated 13 January 2012 at £515 per month.
7. In respect of the French doors, the appellant contends that these were installed after the two flats were initially occupied but prior to 18 May 2012. However no evidence has been submitted to support this view.
8. The Council's evidence conflicts with that of the appellant. Council tax accounts for the two ground floor units did not commence until January 2013 and Google Streetview shows garage doors in situ in July 2012. The Council also states that the appellant did not become the owner of the property until July 2012, although in my view a change of ownership does not necessarily indicate that a material change of use did not commence at an earlier date.
9. The appellant indicated an intention to submit details of council tax payments relating to the occupation of two separate flats independently and continuously in excess of four years, together with a copy of the freehold where independent leases were noted. Additionally witness statements confirming tenants lived in the flats were indicated would be made available. However, no such information has been submitted. No documentation regarding utility connections or utility accounts for two flats has been submitted. No invoices or tradesmen's accounts have been submitted to corroborate when the conversion work was carried out or the French doors installed.
10. There is a distinct lack of information to support the appeal. Although front pages of the tenancy agreements were submitted, complete copies were not made available, nor was there any information about subsequent tenancies. Furthermore, no information has been provided to distinguish the addresses of the two ground floor flats with those elsewhere in the property in order to establish the flat numbers; and, whilst the address on one of the agreements is for Flat 1, the other is described as ground floor south and Flat 2 is not explicitly referred to. There is therefore a degree of ambiguity in the submitted evidence and the Council's evidence contradicts the appellant's version of events.
11. In appeals on legal grounds, the onus of proof rests with the appellant and the level of proof is on the balance of probability. On the basis of the available evidence, the appellant has not shown on the balance of probability that a material change of use of the appeal property into two self-contained flats occurred prior to 18 May 2012; that it has been used continuously for that purpose for a period of four years; or, that the installation of the French doors occurred prior to 18 May 2012.
12. The Council suggests that if a discrepancy exists (between the appellant's dates and the those of the Council), then if the change of use to two self-

contained units was concealed until council tax accounts were set up and the garage doors being replaced, the judgements in *R (aoa) Fidler v SSCLG [2011] EWCA Civ 1159* and *Welwyn Hatfield BC v SSCLG & Beesley [2011]UKSC 15* are relevant. Whether the change of use has been deliberately concealed is not evident from the appeal documents but in any event, I do not need to consider this in the light of my conclusions in the above paragraph.

13. The appeal on ground (d) fails.

The appeal on ground (g)

14. The appellant considers that a compliance period of 6 months is too short in order to honour the existing tenancy agreements and allow operational work to be carried out. A 9-12 month compliance period is considered to be reasonable.

15. As the appellant has not provided details of current tenancy agreements or periods of notice required, I am unable to take a view on whether a period longer than 6 months is justified.

16. The replacement of the doors is a relatively straight forward joinery job and I consider 6 months to be an adequate period for replacements to be commissioned, approval sought and for installation.

17. I do not accept part of the Council's justification for the compliance period on the basis that the appellant has been aware of the possible outcome since the notice was served, as this approach fails to acknowledge the appellant's right of appeal and the outcome of any such appeal.

18. Notwithstanding this, the appeal on ground (g) fails.

Reasons

19. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

20. The appeal is dismissed and the enforcement notice is upheld.

P N Jarratt

Inspector

Appeal Decision

Site visit made on 19 December 2016

by Thomas Bristow BA MSc MRTPI

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

Decision date: 23 January 2017

Appeal Ref: APP/Q1445/W/16/3157692 5 Godwin Road, Hove BN3 7FQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr B Zanjani against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01397, dated 21 April 2016, was refused by notice dated 15 July 2016.
 - The development proposed is described on the application form as 'construction of 1 no. two storey, two bedroom, detached dwelling to the east of 5 Godwin Road'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are:
 - 1) the effect of the proposal on the character and appearance of the surrounding area, and
 - 2) whether or not the proposal would result in acceptable living conditions for the occupants of No 5 Godwin Road with particular reference to enclosure, natural light and privacy.

Procedural Matter

3. Application Ref BH2016/01397 follows unsuccessful application Ref BH2015/04239 which was similarly for the erection of a dwelling, albeit of different design. Although the main parties have commented on the proposal to which this appeal relates with reference to its predecessor, for the avoidance of doubt I have determined this appeal on the basis of the scheme before me.

Reasons

Character and appearance

4. No 5 is a modest two storey property of understated design set on a cul-de-sac spur of Godwin Road. It typifies the prevailing form and design of nearby properties: uniformly mid-century dwellings regularly arranged along a broadly consistent building line facing carriageways. As the appeal site is within an established residential area, there is nothing before me to indicate that residential development would be unacceptable in this location in principle.
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5. Although there is some variety in the spacing between properties and their situation relative to carriageways in the immediate vicinity of the appeal site, the prevailing design and arrangement of dwellings in the wider area is rigidly uniform. Alongside the common origins of properties, this results in an ordered and harmonious character and appearance to the area.
6. Somewhat atypically of the prevailing layout, No 5 falls on a circular close and occupies an irregularly shaped corner plot such that the majority of its garden falls to the side and front of the property rather than to the rear as is more commonplace. The proposal is to erect a dwelling within the side and front garden of No 5, which is in the main hard-surfaced and I understand presently used primarily for parking.
7. Policy CP12 'Urban Design' of the Brighton & Hove City Plan Part One adopted on 24 March 2016 (the 'City Plan'), sets out various requirements as to how new development should integrate appropriately with the character of its surroundings. Considered in this context, the scale and design of the dwelling proposed would not inherently be out of keeping with those nearby.
8. However the dwelling proposed would be significantly set forward of the line of the principal elevation of No 5, which is an incongruous arrangement compared to the prevailing layout of properties nearby. Moreover its principal elevation would be at a right-angle to that of No 5 which is an inter-relationship which atypical of the pattern of properties within the surrounding area.
9. Consequently the proposed siting of the dwelling within its plot relative to No 5 would in my view appear jarring and incongruous. The proposal would furthermore appear out-of-keeping by being set far closer to the common boundaries of neighbouring properties than is the prevailing arrangement of properties of the area, resulting in an uncharacteristic level of density.
10. I acknowledge that there are relatively few properties served by this particular spur of Godwin Road and that a number of evergreen trees are present which impede direct views of the appeal site from certain directions. Nevertheless I observed during my site visit that the dwelling proposed would be clearly visible from various vantage points nearby, including from near the junction of Godwin Road and Bellingham Crescent above the boundary features of properties and their garages here.
11. Therefore whilst I recognise that the proposal has been designed to respond to the confines of the appeal site, I conclude that it would have an adverse effect on the generally consistent character and appearance of the area in conflict with the relevant provisions of policy CP12 of the City Plan.

Living conditions

12. Saved policy QD27 'Protection of amenity' of the Brighton & Hove Local Plan adopted originally in 2005 (the 'Local Plan') prevents development that would result in the loss of amenity to the occupiers of properties. Whilst of some vintage this policy accords with the encouragement given within the National Planning Policy Framework (the 'Framework') to seeking to secure a good standard of amenity for all existing and future occupants of buildings, and can therefore be accorded due weight.¹

¹ With reference to the approach in paragraph 215 of the Framework.

13. As set out above the proposal would result in a new dwelling set close to No 5 which would represent an uncharacteristic level of density. In my view this, and as the principal elevation of the dwelling proposed would be perpendicular to that of No 5, would result in an undue sense of enclosure and reduction in outlook for the occupants of No 5 particularly with reference to the surrounding inter-relationship of properties.
14. In my view this would be particularly acute from around the front door of No 5, clearly a regularly frequented area of the property. Consequently, and as the dwelling proposed would fall broadly to the east of No 5, there is also some potential for overshadowing of No 5 and the area immediately around it to the detriment of the living conditions of its occupants.
15. Whilst I accept that there is a degree of overlooking of the front gardens of properties in the area, I have set out above how the perpendicular arrangement of the dwelling would be incongruous. Windows at ground and first and floor level of the proposed dwelling would therefore face at an oblique angle and at close proximity windows thus located within No 5. In my view this would lead to a reciprocal reduction in privacy to the detriment of the occupants of both properties to a degree which is unacceptable.
16. For the above reasons I therefore conclude that the proposal would result in unacceptable living conditions for the occupants of No 5 Godwin Road with particular reference to enclosure, natural light and privacy. Accordingly the proposal does not accord with the relevant provisions of policy QD27 of the Local Plan or relevant elements of the Framework.

Other Matters

17. I acknowledge that the proposal would have some benefits in resulting in an additional dwelling in an established residential area, and indeed in entailing some social and economic benefits in supporting employment during construction and as future occupants would make use of nearby services and facilities. However such benefits would be modest in respect of one dwelling.
18. Whilst it may be possible to mitigate certain effects of the proposal via condition, for example securing additional boundary screening, such mitigation would only partially reduce the effect of the proposal and not in my view to an extent that would render the proposal acceptable (particularly given that this would have the potential to exacerbate a sense of enclosure).
19. The appellant explains that the appeal site is at present 'underused and of little benefit to the existing host property'. Whilst I accept this may be the case, this does not serve to justify unacceptable development or indicates that the side and front garden of the property would similarly be of limited value to any future occupant of No 5.
20. I also acknowledge that it may be possible to erect a side extension in this location, potentially without the need for specific planning consent. However there is no definitive information before me as to the scale that such an extension could be, and moreover were such an extension to be created the extension would be associated with No 5 and thus the adverse impacts in respect of privacy identified above would not arise.
21. I also acknowledge that the Council do not object to the proposal in respect of highways effects or energy efficiency. However that no adverse effects would

result in these respects does not weigh positively in favour of the proposal. Consequently neither these matters, nor any other, are sufficient to outweigh my findings on the main issues in this case.

Conclusion

22. I therefore conclude that the proposal conflicts with the development plan taken as a whole and with the approach in the Framework, and that no material considerations outweigh the harm arising from this conflict. Accordingly, and having taken into account all other matters raised, I dismiss the appeal.

Thomas Bristow

INSPECTOR

Appeal Decision

Site visit made on 20 December 2016

by Thomas Bristow BA MSc MRTPI

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

Decision date: 24 January 2017

Appeal Ref: APP/Q1445/W/16/3158279 39 Old Shoreham Road, Brighton BN1 5DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Clapham Properties (Brighton) Ltd against Brighton & Hove City Council.
 - The application Ref BH2016/01934 is dated 25 May 2016.
 - The development proposed is described on the application form as to 'remove existing single/two storey side extension and replace with a new two storey extension in order to facilitate conversion of the building from a single dwelling house to 6 flats'.
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Decision

1. The appeal is dismissed and planning permission is refused.

Main Issues

2. The appeal is against the Council's failure to determine application Ref BH2016/01934 within the relevant statutory period. However the Council have explained at appeal that, had they been in a position to do so, they would have refused permission for the development proposed for. Consequently on the basis of the information before me the main issues in this case are:
 - 1) the effect of the proposal on the character and appearance of the area, and
 - 2) whether or not the proposal makes appropriate provision for affordable housing.

Reasons

Character and appearance

3. No 39 is a grand three-storey double-fronted end of terrace property within an area of Brighton where properties share common historic origins. Although the urban grain is more mixed in the wider area, properties to the south of Old Shoreham Road in the immediate vicinity of the appeal site are typically large semi-detached and terraced properties commonly featuring intricate architectural detailing.
-

4. The topography steps down from Old Shoreham Road towards the south such that the lower ground floor of No 39 leads out level with its rear garden. The property currently features a modest two storey side extension which abuts the common plot boundary with No 41, and which therefore consequently appears only as a single storey as viewed from the carriageway. Although there is no definitive information before me as to the origins of this extension, the presence of a timber sash window and the brick construction used indicates that it has been present for some considerable time.
5. Whilst there is some variety in their width, the spaces between properties to the south of Old Shoreham Road lend a consistent rhythm to the streetscene and clearly set properties apart from one another. Whilst several properties have been extended to the side,¹ it appeared to me that these extensions are likely chiefly historic features of the area rather than recent additions. Moreover such extensions are generally limited in width relative to their host properties and set back substantially from the line of the principal elevations thereof, features which limit their prominence.
6. Policy CP12 'Urban Design' of the Brighton & Hove City Plan Part One adopted on 24 March 2016 (the 'City Plan'), briefly stated, sets out various requirements as to how development should integrate appropriately with its surroundings, including in respect of the urban grain of an area. Similarly saved policy QD14 'Extensions and alterations' of the Brighton & Hove Local Plan adopted originally in 2005 (the 'Local Plan') requires that residential extensions are designed appropriately with reference to the character of adjoining properties.
7. The Councils' Design guide for extensions and alterations supplementary planning document, adopted on 20 June 2013 (the 'SPD'), provides guidance as to how such development should integrate with its surroundings, including in respect of proportions and detailing. It establishes as a benchmark that 'a minimum 1m gap should be left between the site boundary and extension' where a two storey extension is proposed, having acknowledged that a 'sense of space and separation' may be important to the rhythm of a street.
8. The National Planning Policy Framework (the 'Framework') sets out that planning should always seek to secure high quality design, and that it is proper to seek to reinforce local distinctiveness. The Planning Practice Guidance (the 'Guidance') further explains that the design of proposals should ensure that new and existing buildings relate well to each other based on an understanding of the prevailing pattern of development.²
9. Therefore whilst saved policy QD14 of the Local Plan is of some vintage, it is nevertheless consistent with the approach in the Framework and the Guidance. Consequently I accord substantial weight to it in this decision.³ Notwithstanding that it does not form part of the development plan, the approach in the SPD as to how development can be appropriately designed with regard to its surroundings appears to be similarly in line with that of the Framework and the Guidance. Accordingly I accord the SPD substantive weight.

¹ Including Nos 43, 51 and 55 Old Shoreham Road.

² In particular reference ID: 26-024-20140306.

³ With reference to paragraph 215 of the Framework.

10. The proposal is to demolish the existing two storey side extension and to replace it with a significantly larger three storey extension which would similarly extend to the common plot boundary with neighbouring No 41.⁴ Various design features of No 39 would be emulated within the extension, including brick arches over windows and accentuated quoins and string courses.
11. However some of the finer detailing currently present around certain windows of No 39, notably lintels with decorative keystones, would not be replicated. Moreover the wall-to-window ratio of the proposed extension would be greater than that the main element of No 39 at present. Collectively the design of the proposal would therefore be incongruous with that of the host property. I cannot, as the appellant has suggested, address this issue through the imposition of an associated condition as to do so would be to render the development substantially different to that which has been proposed in conflict with the approach in the Guidance.⁵
12. The extension proposed would be set back approximately 1.4 metres from the line of the principal elevation of the main element of No 39, reach a maximum height approximately 1.6 metres lower than that of the main ridgeline of the property, and be lesser in width than half that of the existing property. Thus the extension would have a degree of subservience to the host property.⁶
13. Nevertheless the extension would extend approximately 3.5 metres forward of the existing side extension and reach a maximum height approximately 3.5 metres higher than that of the existing roof thereof. Thus it would result in a substantial increase in bulk to the existing property and would be set hard-up against the common plot boundary with neighbouring No 41, notwithstanding that No 41 is set on a slightly higher ground level and is larger in overall scale.
14. In my view given this substantial increase in scale and bulk of the proposal compared to the existing side extension, the proposal would significantly enclose the space between Nos 39 and 41 Old Shoreham Road. As explained above this space is valuable in establishing a consistent rhythm to the streetscene in the area immediately around the appeal site.
15. In both scale and proximity to the principal elevation of No 39 the proposal would furthermore be jarringly out-of-keeping with the prevailing form of side extensions where present in the area, a relationship which would be exacerbated by the difference in design of the extension compared with that of No 39 as described above. Moreover given that the side extension to No 39 and others nearby are in my view likely to be historic features of the area, their presence does not serve to justify unacceptable development in the present.

⁴ I note here that the changing topography from Old Shoreham Road to the rear of No 39 accounts for the description of the extension proposed as two-storey by the appellant, whereas in actually it would comprise three storeys of accommodation and I have therefore referred to it as such.

⁵ Reference ID: 21a-012-20140306.

⁶ Figures in paragraph 2.01 of the appellant's appeal statement, notwithstanding that in final comments submitted at appeal the maximum height of the roof of the extension proposed is given as 1.3 metres lower than that of the main ridgeline of the property.

16. For the above reasons I therefore conclude that the proposal would result in a significant detrimental effect to the character and appearance of the area, thereby conflicting with the relevant provisions of policy CP12 of the City Plan, policy QD14 of the Local Plan, and with relevant elements of the SPD, the Framework and the Guidance.

Affordable housing

17. Policy CP20 'Affordable Housing' of the City Plan, briefly stated, establishes that for development of between 5 and 9 (net) new dwellings the Council will seek to require a contribution towards affordable housing provision amounting to 20 per cent of the units proposed. No contribution towards affordable housing provision is made as part of the proposal to which this appeal relates.

18. However the adoption of the Local Plan on 24 March 2016 pre-dates changes to the Guidance as to where such contributions may be sought.⁷ These changes were made pursuant to the Court of Appeal judgement handed down on 11 May 2016 in Secretary of State for Communities and Local Government v West Berkshire District Council & Anor.⁸ This judgement gave legal effect to the Ministerial statement of 28 November 2014,⁹ which was not in force at the time the Council adopted the City Plan.

19. The Guidance sets out that contributions for affordable housing should not be sought from developments of 10-units or less. It indicates that a lower threshold may be set in designated rural areas, however there is no flexibility therein in respect of other areas. The Ministerial Statement explains that this approach has been arrived at given the 'disproportionate burden of developer contributions on small scale developers'.

20. The Council's approach in policy CP20 of the City Plan is explained in supporting paragraph 4.217 thereof as resulting from a pressing need for affordable housing. The Council have further explained at appeal that they are of the view that policy CP20 continues to have currency for this reason, given the constraints on housing land supply, and as a significant proportion of housing delivery in Brighton & Hove results from small-scale sites. These are clearly important dynamics in respect of housing delivery within the Council's administrative area, and it is therefore appropriate to accord the approach in policy CP20 significant weight.

21. However, as set out above, policy CP20 of the City Plan is inconsistent with the most recent position set by the Government in this respect, a position which does not allow flexibility for urban areas and is clearly premised on the disproportionate burden that requiring contributions for affordable housing in respect of small-scale sites entails. Whilst the statutory basis of decision-taking is that decisions must be taken in accordance with the development plan unless material considerations indicate otherwise, in this context I cannot conclude other than that the Guidance and policy within the Ministerial Statement referred to above carry more weight than that of policy CP20 of the City Plan.¹⁰

⁷ Reference ID:23b-031-20160519.

⁸ EWCA Civ 441.

⁹ Official record Ref HCWS50.

¹⁰ A finding consistent with that of the inspector in appeal Ref APP/Q1445/W/16/3152366 which has been brought to my attention by the appellant.

22. Accordingly I conclude that the absence of a financial contribution towards affordable housing provision in connection with the proposal is not unacceptable. Nevertheless that the proposal is not unacceptable in this respect is essentially a neutral factor in the overall planning balance rather than one which serves to outweighs the harm that I have identified would result in respect of the first main issue.

Other Matters

23. Saved policy HO9 'Residential conversions and the retention of smaller dwellings' of the Local Plan accords support in principle to the conversion of dwellings into smaller self-contained accommodation. The Council therefore do not object in principle to the use proposed in this context, nor with regard to the provisions of policy CP1 'Housing Delivery' of the City Plan which seeks to focus new housing development within accessible areas of the City.
24. The proposal would result in 5 additional homes, re-use previously developed land, and entail some economic and social benefits in supporting employment during construction and as future occupants would make use of nearby services and facilities. I also accept, subject to associated conditions, that the proposal would result in no unacceptable effects in respect of transport matters or energy efficiency (or indeed in other respects).
25. However whilst the development plan and the Framework are supportive of new housing and social and economic benefits of development in general terms, both are clear that this should not be at the expense of securing good design. I would note in this context that there is no robust evidence before me to indicate that the scheme proposed is the only way of securing such benefits, which further reinforces my view that I can give such benefits only moderate weight.¹¹
26. It appears not to be disputed that the Council are presently able to demonstrate a five year land supply of deliverable housing sites, with reference to the approach in paragraphs 49 of the Framework. Indeed, and for the avoidance of doubt, there is no information before me in respect of this matter.
27. However for the sake of clarity even were the Council unable to demonstrate a five year land supply, the adverse effects of the proposal would in my view significantly and demonstrably outweigh the benefits for the reasons given above. Consequently neither the benefits of the proposal, nor any other matter, are sufficient to outweigh or alter the considerations that have led to my conclusion in respect of the main issues in this appeal.

Conclusion

28. For the above reasons, and having taken all other matters raised into account, the proposal conflicts with the development plan taken as a whole and with the

¹¹ In particular the appellant has clarified in paragraph 3.01 of his appeal statement that permission has been granted, although not implemented, for a three storey rear extension and dormer which would provide for significant additional floorspace.

approach in the Framework. I therefore conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR