



Brighton & Hove  
City Council

# Planning Committee

|          |  |
|----------|--|
| Title:   | <b>Planning Committee</b>  |
| Date:    | <b>10 May 2017</b>   |
| Time:    | <b>2.00pm</b>  |
| Venue    | <b>Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 3BQ</b>   |
| Members: | <b>Councillors:</b> Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Group Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morris and Russell-Moyle<br><br><b>Co-opted Members:</b> Jim Gowans (Conservation Advisory Group) |
| Contact: | <b>Cliona May</b><br>Democratic Services Officer<br>01273 29-1065/29-1354<br>planning.committee@brighton-hove.gov.uk   |



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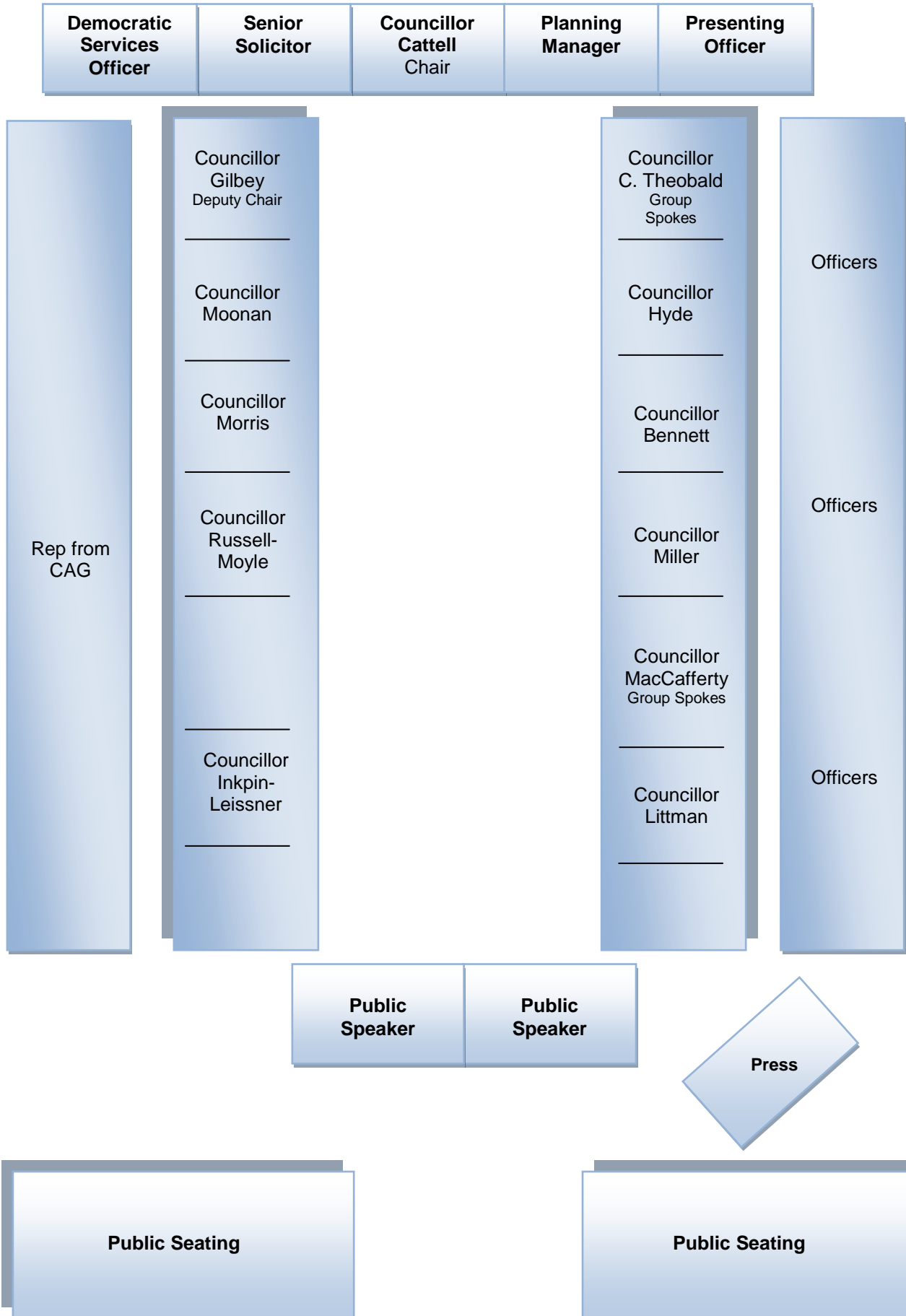
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# Democratic Services: Planning Committee



## AGENDA

### 145 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

### 146 MINUTES OF THE PREVIOUS MEETING 1 - 2

Minutes of the meeting held on 3 April 2017 (copy attached).

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

Minutes of the meeting held on 12 April 2017 (copy to follow).

### 147 CHAIR'S COMMUNICATIONS

### 148 PUBLIC QUESTIONS

**Written Questions:** to receive any questions submitted by the due date of 12 noon on 3 May 2017.

### 149 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS

### 150 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 BH2016/05530 - Land South Of Ovingdean Road, Brighton - 3 - 80 Outline Application Some Matter Reserved

Outline planning application with appearance reserved for the construction of 45 no one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, strategic landscaping and part retention/reconfiguration of existing paddocks. New vehicular access from Ovingdean Road and junction improvements.

#### **RECOMMENDATION – MINDED TO GRANT**

*Ward Affected: Rottingdean Coastal*

## MINOR APPLICATIONS

#### B BH2016/05803 - 22 Freshfield Street, Brighton - Full Planning 81 - 92

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

#### **RECOMMENDATION – GRANT**

*Ward Affected: Queen's Park*

## PLANNING COMMITTEE

- C BH2016/06310 - Land to the Rear of 4 - 34 Kimberley Road, Brighton - Full Planning 93 - 112**  
Erection of 4no two storey dwellings (C3) with off-street parking associated landscaping works and re-surfacing of access road.  
**RECOMMENDATION – GRANT**  
*Ward Affected: Moulsecoomb & Bevendean*
- D BH2017/00693 - 16 St Lukes Terrace Brighton - Householder Planning Consent 113 - 124**  
Erection of single storey extension, alterations to fenestration and installation of flue pipe.  
**RECOMMENDATION – GRANT**  
*Ward Affected: Queen's Park*
- E BH2016/02639 - 17 Marmion Road, Hove - Removal or Variation of Condition 125 - 142**  
Application for variation of condition 2 of application BH2015/00914 (Demolition of existing building and erection of 5no three bedroom dwelling houses) to incorporate single storey extensions to rear elevation and the reconfiguration of the top floors and the removal of condition 14 which states that prior to first occupation of the development hereby permitted a scheme shall be 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.  
**RECOMMENDATION – GRANT**  
*Ward Affected: Wish*
- F BH2017/00262 - Canons, 27A Preston Park Avenue, Brighton - Variation Of Condition 143 - 158**  
Variation of condition 1 of application BH2016/01925 (Demolition of existing dwelling and erection of 1no two storey three bedroom dwelling (C3).) to allow increase in height of parapet to sedum roof.  
**RECOMMENDATION – GRANT**  
*Ward Affected: Preston Park*
- G BH2016/06262 - 9 Sunnydale Avenue, Brighton - Full Planning 159 - 176**  
Demolition of existing bungalow (C3) and erection of 2no four bedroom residential dwellings (C3) with vehicle crossover.  
**RECOMMENDATION – GRANT**  
*Ward Affected: Patcham*

## PLANNING COMMITTEE

- 151 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

- 152 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 177 - 178**

(copy attached).

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

(copy to follow)

- 154 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 179 - 186**

(copy attached).

- 155 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 187 - 188**

(copy attached).

- 156 APPEAL DECISIONS 189 - 266**

(copy attached).

### PART TWO

#### PROCEDURAL MATTERS

- 157 PART TWO MINUTES 267 - 272**

To consider the part two minutes of the meeting held on 3 April 2017  
(copy attached).

- 158 PART TWO PROCEEDINGS**

To consider whether the items listed in Part Two of the agenda and decisions thereon should remain exempt from disclosure to the press and public.

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

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

## PLANNING COMMITTEE

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

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Therefore by entering the meeting room and using the seats around the meeting tables you are deemed to be consenting to being filmed and to the possible use of those images and sound recordings for the purpose of web casting and/or Member training. If members of the public do not wish to have their image captured they should sit in the public gallery area.

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

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

Date of Publication - Tuesday, 2 May 2017





**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 3 APRIL 2017**

**COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 4AH**

**MINUTES**

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

**Officers in attendance:** Paul Vidler (Planning Manager – Major Applications), Hilary Woodward (Senior Solicitor), Sandra Rogers (Acting Planning Manager – Policy, Projects and Heritage), Rebecca Fry (Principle Planning Officer) and Cliona May (Democratic Services Officer).

**PART ONE**

**128 PROCEDURAL BUSINESS**

**a Declarations of substitutes**

128.1 Councillor Wares was present in substitution for Councillor Hyde.

**b Declarations of interests**

128.2 There were none.

**c Exclusion of the press and public**

128.3 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.

128.4 **RESOLVED** - That the press and public be excluded from the meeting during consideration of Item 131 onwards.

**d Use of mobile phones and tablets**

128.5 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'.

**129 CHAIR'S COMMUNICATIONS**

129.1 There were none.

**130 PLANNING APPEAL RELATING TO 46-54 OLD LONDON ROAD, PATCHAM (PLANNING APPLICATION REF. BH2016/01961)**

130.1 **RESOLVED** – That the Committee note the information in the appendices.

**131 PLANNING APPEAL RELATING TO 46-54 OLD LONDON ROAD, PATCHAM (PLANNING APPLICATION REF. BH2016/01961) - EXEMPT CATEGORY 5**

131.1 **RESOLVED** – That the amended recommendations in the Part Two Report be agreed.

**132 PART TWO PROCEEDINGS**

132.1 **RESOLVED** – That the information contained in Part Two remain exempt from disclosure to the press and public.

The meeting concluded at 3.40pm

Signed

Chair

Dated this      day of

# **ITEM A**

**Land South Of Ovingdean Road, Brighton**

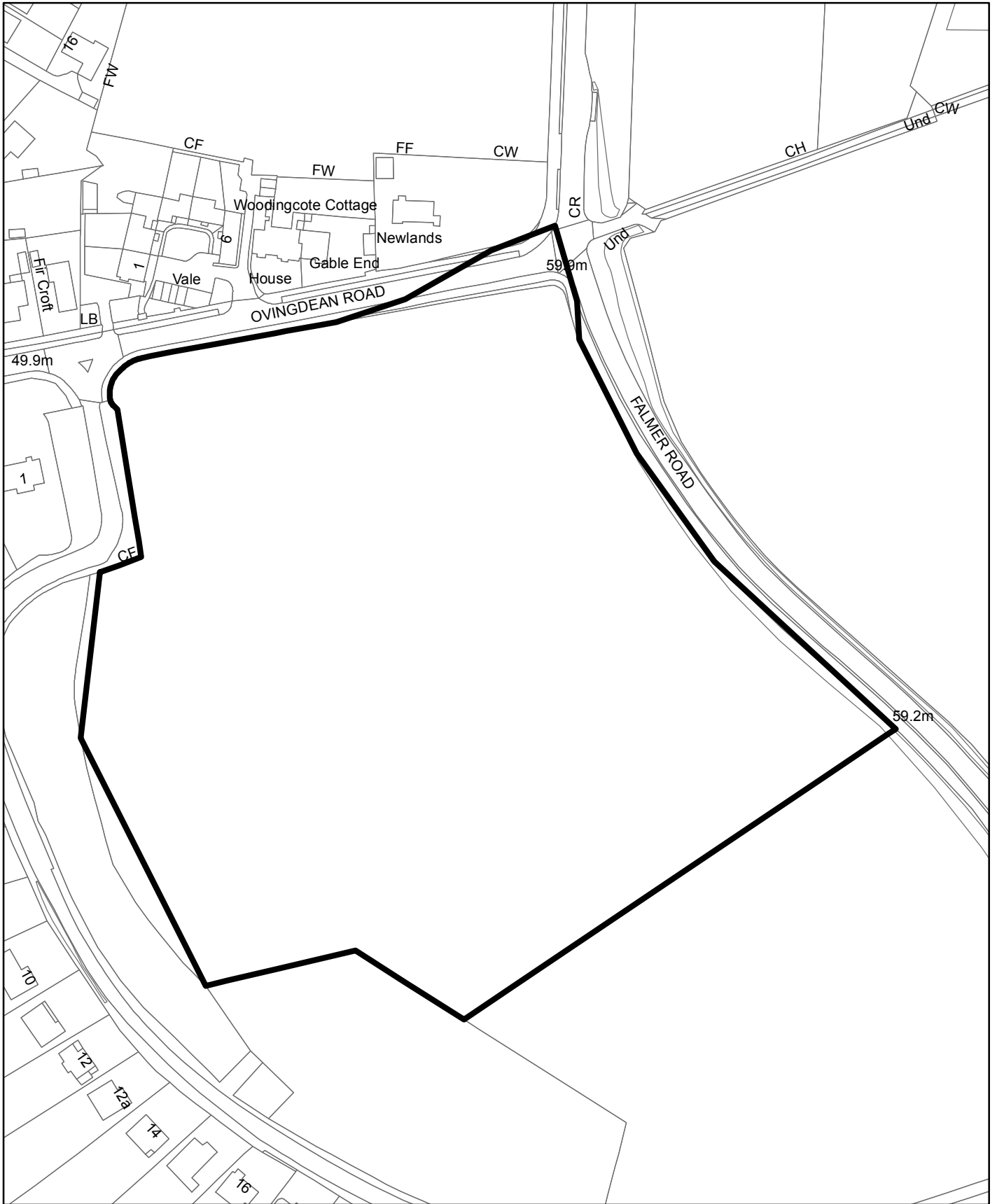
**BH2016/05530**

**Outline Application Some Matter Reserved**

**DATE OF COMMITTEE 10<sup>th</sup> May 2017**



# BH2016/05530 Land South Of Ovingdean Rd, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,650**



|                                      |  |                            |                                 |
|--------------------------------------|--|----------------------------|---------------------------------|
| <b><u>No:</u></b>                    | <b>BH2016/05530</b>  | <b><u>Ward:</u></b>        | <b>Rottingdean Coastal Ward</b> |
| <b><u>App Type:</u></b>              | <b>Outline Application Some Matter Reserved</b>  |                            |                                 |
| <b><u>Address:</u></b>               | <b>Land South Of Ovingdean Road Brighton</b>   |                            |                                 |
| <b><u>Proposal:</u></b>              | <b>Outline planning application with appearance reserved for the construction of 45 no one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, strategic landscaping and part retention/reconfiguration of existing paddocks. New vehicular access from Ovingdean Road and junction improvements.</b> |                            |                                 |
| <b><u>Officer:</u></b>               | <b>Liz Arnold, tel: 291709</b>   | <b><u>Valid Date:</u></b>  | <b>11.10.2016</b>               |
| <b><u>Con Area:</u></b>              | <b>N/A</b>   | <b><u>Expiry Date:</u></b> | <b>10.01.2017</b>               |
| <b><u>Listed Building Grade:</u></b> | <b>N/A</b>   | <b><u>EOT:</u></b>         | <b>16.06.2017</b>               |
| <b><u>Agent:</u></b>                 | <b>Mr Daniel Weaver First Floor South Wing Equinox North Great Park Road Almondsbury Bristol BS32 4QL</b>  |                            |                                 |
| <b><u>Applicant:</u></b>             | <b>Lightwood Strategic C/O Pegasus Planning Group Ltd First Floor South Wing Equinox North Great Park Road Almondsbury Bristol BS32 4QL</b>  |                            |                                 |

## 1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to the receipt of no representations raising additional material considerations within the re-consultation period, a s106 agreement and the following Conditions and Informatives:

### **S106 Heads of Terms**

- 40% affordable housing (55% affordable rent (10 units) and 45% shared ownership (8 units)),
- A total contribution of £251,353 towards the cost of providing primary (£105,097) and secondary educational (£146,256),
- A contribution of £20,500 towards the Council's Local Employment Scheme,
- A contribution of £45,000 towards an Artistic Component / public realm
- Construction Training and Employment Strategy including a commitment to using 20% local employment during the demolition and construction phases of the development,
- A Residential Travel Plan, to include a Residential Travel Pack, to be provided for all first occupiers of the development,
- Walkways Agreement, to agree a means of access and management of the pedestrian and cycle routes within the site which do not form part of the principle estate roads,

- A long-term management and maintenance plan for the proposed horse paddocks and public open space areas, and
- A contribution of £ 191,432 towards open space and indoor sport.

**Conditions:**

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

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

| Plan Type        | Reference     | Version | Date Received               |
|------------------|---------------|---------|-----------------------------|
| Location Plan    | BRS.4783_04-1 | B       | 3 October 2016              |
| Site Layout Plan | BRS.4783_20   | AG      | 20 <sup>th</sup> April 2017 |

2. a) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:

(i) Appearance,

b) The reserved matters shall be carried out as approved.

c) Approval of all reserved matters shall be obtained from the Local Planning

Authority in writing before any development is commenced.

**Reason:** To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

3. The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

4. No dwelling shall be occupied until all the car parking areas have been constructed and provided in accordance with the approved plans. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.

**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One.

5. No extension, enlargement, alteration or provision within the curtilage of the of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.



**Reason:** The Local Planning Authority considers that given the sensitive location of the site, further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area including the setting of the South Downs National Park, and to comply with policy QD27 of the Brighton & Hove Local Plan and policies SA4, SA5 and CP12 of the Brighton and Hove City Plan Part One.

6. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.

7. A minimum of 10% of the affordable housing units and 5% of the total of all of the residential units hereby approved shall be built to wheelchair accessible standards. The wheelchair accessible dwellings shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

8. No hedgerow, tree or shrub shall be removed from the site between 1st March and 31st August inclusive, unless a qualified Ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to and agreed in writing by the Local Planning Authority.

**Reason:** To ensure that wild birds building or using their nests are protected, in accordance with QD18 of the Brighton & Hove Local Plan.

9. The development shall not include appliances for solid or liquid fuel burning and any boilers within the development should be ultra-low NOx gas boilers, details of which are to be submitted to and approved in writing by the Local Planning Authority prior to installation, unless an alternative is agreed in writing by the Local Planning Authority.

**Reason:** To mitigate the impact of the development on air quality including the Rottingdean Air Quality Management Area and to comply with policy SU9 of the Brighton & Hove Local Plan.

10. The buildings within the reserved matters submission shall not exceed 2 storeys in height with a maximum ridge height of 10.2m.

**Reason:** To ensure the development integrates effectively with its surroundings including the setting of the South Downs National Park and to comply with policies SA4, SA5 and CP12 of the Brighton and Hove City Plan Part One.

11. No development or other operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until the following Method Statements have been submitted to and approved in writing by the Local Planning Authority:

- i) An Arboricultural Method Statement, to include a detailed Tree Protection Plan and Treeworks Specification and means for their implementation, supervision and monitoring during works;
- ii) A Construction Method Statement to include details of the location of services and soakaways and how, amongst others, excavations, materials storage, drainage, servicing and hard surfaces, will be managed and implemented to provide for the long-term retention of the trees;

No development or other operations shall take place except in complete accordance with the approved Arboricultural and Construction Method Statements. The approved tree protection shall be retained until the development is completed.

**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site and protected species that may be present during construction works in the interest of the visual amenities of the area and to comply with policies QD16, QD18 & HE6 of the Brighton & Hove Local Plan and CP10, CP12 & CP15 of the Brighton & Hove City Plan Part One.

12. Prior to commencement of development a detailed design and implementation plan of foul water disposal from the site and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority.

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

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

13. Prior to commencement of development a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved detailed design and be available prior to first occupation of the development.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure that the principles of sustainable drainage are incorporated into the proposal in accordance with retained Policy SU3 in the

Brighton & Hove Local Plan 2005 and Policy CP11 in the Brighton & Hove City Plan Part One.

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

**Reason:** This pre-commencement condition is imposed because it is necessary to ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan

15. No development shall commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

16. (i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:
- (a) A 'check' contamination analyses be undertaken to confirm a conceptual model and allow a generic quantitative risk assessment to be undertaken. And if notified in writing by the Local Planning Authority that the results of the risk assessment are such that site remediation is required then;
- (b) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.

- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of (i)
- (b) Above that any remediation scheme required and approved under the provisions of (i) (b) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation).  
Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:
  - a) As built drawings of the implemented scheme;
  - b) Photographs of the remediation works in progress; and
  - c) Certificates demonstrating that imported and/or material left in situ is free from contamination.
 Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i) (b).

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

- 17. i) No development above ground floor slab level of any part of the development hereby permitted shall take place until details of all the external lighting of the development (including design, layout and levels of illuminance) shall be submitted to and approved in writing by the Local Planning Authority.
- ii) Prior to occupation, the illuminance levels shall be tested by a competent person to ensure that the illuminance levels agreed in part 1 are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in Part 1.
- ii) The approved installation shall be maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to a variation.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of the occupiers of adjoining properties and to ensure a satisfactory appearance to the highways infrastructure serving the approved development, to safeguard the interests of users of the highway and to strike an acceptable balance between highway public safety, neighbouring amenity and safeguarding the wider amenities of the urban fringe, including ecological interests and the nearby South Downs National Park and to comply with Policies TR7, CP9 and SA5 of the Brighton & Hove City Plan Part One and policies QD25 and QD27 of the Brighton & Hove Local Plan.

- 18. No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:

- i) The phases of the Proposed Development including the forecasted completion date(s)
- ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
- iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- iv) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management, vibration, site traffic and deliveries to and from the site
- v) Details of hours of construction including all associated vehicular movements
- vi) Details of the construction compound
- vii) A plan showing construction traffic routes which demonstrates that construction vehicles will only access the application site from the north, in order to avoid the Rottingdean Air Quality Management Area (AQMA).
- viii) An audit of all waste generated during construction works, to include;
  - a) The anticipated nature and volumes of waste that the development will generate
  - b) The steps to be taken to ensure effective segregation of wastes at source including, as appropriate, the provision of waste sorting, storage, recovery and recycling facilities.
  - c) Any other steps to be taken to manage the waste that cannot be incorporated within the new development or that arises once development is complete.

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

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

- 19. No development above ground floor slab level of any part of the development hereby permitted shall take place until information has been submitted and approved in writing by the Local Planning Authority demonstrating that each residential unit would be built to achieve an energy efficiency standard of a minimum of 19% CO<sub>2</sub> improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**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.
- 20. No development above ground floor slab level of any part of the development hereby permitted shall take place until an Energy Strategy has been submitted

and approved in writing by the Local Planning Authority. The Strategy should include a renewables feasibility study and proposals to install renewable energy generation, a strategy for energy efficiency and means to achieve the 19% carbon reduction target and, passive design approach providing details of climate adaptation.

**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.

21. No development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme setting out highway works to implement the following together with a Stage 2 Safety Audit has been submitted to and approved in writing by the Local Planning Authority. The works shall include:
- a) The proposed main site access from Ovingdean Road which includes a side road entry treatment;
  - b) The provision of a vehicle crossover to serve Plot 1;
  - c) The reinstatement of the redundant vehicle crossover on Ovingdean Road back to footway;
  - d) A right turn lane with a pedestrian refuge at the junction of Falmer Road/Ovingdean Road;
  - e) The provision of parking restrictions and/or measures to prevent parking on Falmer Road and adjacent verge in order to maintain visibility of and from the proposed crossing; and
  - f) The implementation of bus shelters, Real Time Passenger Information signs and Kassel Kerbs at the two bus stops on Ovingdean Road directly opposite the site and the two bus stops closest to the site on Falmer Road.

No part of the development hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.

**Reason:** To ensure that suitable vehicle and pedestrian access provision is provided to and from the development and to comply with policy CP9 of the City Plan Part One and policy TR7 of the Brighton & Hove Local Plan.

22. No development shall be commenced until full engineering, drainage, road markings and signage and constructional details of all streets, footways and cycle routes (both those proposed for adoption and those not) have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority. No dwelling hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.
- Reason:** As this matter is fundamental in the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the interests of users of the highway in accordance with policy CP9 of the Brighton & Hove City Plan Part One and Local Plan Policies TR7 and TR15.

23. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of electric vehicle charging points for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
- Reason:** To encourage travel by more sustainable means and to comply with policy CP9 of the Brighton & Hove Local Plan and SPD14.

24. No development shall take place (including any demolition, ground works, site clearance) until the following method statements have been submitted to and approved in writing by the Local Planning Authority;

- (i) For the protection of reptiles,
- (ii) For the protection and translocation of red star-thistle

The content of the method statements shall include the following:

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

The works shall be carried out in accordance with the approved details prior to commencement of the development and shall be retained in that manner thereafter.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure the long-term management of the ecological areas and to comply with policies QD18 and NC4 in the Brighton and Hove Local Plan 2005, policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

25. No development shall take place (including demolition, ground works, vegetation clearance) until a Biodiversity Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of "biodiversity protection zones";

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure the long-term management of the ecological areas and to comply with policies QD18 and NC4 in the Brighton and Hove Local Plan 2005, policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

- 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.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the City Plan Part One.
- 27. None of the residential units hereby approved shall be occupied until information has been submitted to and approved in writing by the Local Planning Authority that each residential unit has been built in accordance with the approach set out in the approved Energy Strategy and to achieve an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the City Plan Part One.
- 28. The development hereby approved shall not be occupied until refuse and recycling storage facilities have been installed to the side or rear of the building and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 29. 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.

30. Prior to first occupation of the development hereby permitted, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed;
  - b) Ecological trends and constraints on site that might influence management;
  - c) Aims and objectives of management;
  - d) Appropriate management options for achieving aims and objectives;
  - e) Prescriptions for management actions, together with a plan of management compartments;
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
  - g) Details of the body or organisation responsible for implementation of the plan;
  - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to ensure the long-term management of the ecological areas and to comply with policies QD18 and NC4 in the Brighton and Hove Local Plan 2005, policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

31. Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a) Details of all hard and soft surfacing;
  - b) The positions, height, design, materials and type of all existing and proposed boundary treatments
  - c) Details of all proposed planting to all areas of the development, including written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes and proposed numbers/densities and an implementation programme.

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. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 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. Scotland Gas Networks advise that there is a pressure gas main near the site. They advise 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. You should, where required confirm the position using hand dug trial holes. 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. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.
3. All existing water main infrastructure should be protected during the course of construction works. No development or new tree planting should be located within 3m either side of the centreline of the foul sewer. No new soakaways should be located within 5m of a public sewer. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. For further advice, the applicant is advised to contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
4. The development should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service the development and seek a formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

5. To discharge the surface water drainage condition above the Local Lead Flood Authority would expect the developer to provide the detail for the whole site, which should include the details of each soakaway (including location and build details) and details of any other drainage infrastructure, such as permeable paving. The applicant will need to provide;
  - An appropriate soakaway test in accordance with Building Research Establishment Digest 365 (BRE365). Details of the results will need to be provided.
  - Appropriate calculations to demonstrate that the final proposed drainage system will be able to cope with both winter and summer storms for a full range of events and storm durations.
  - The applicant should demonstrate the surface water drainage system is designed so that flooding does not occur on any part of the site for a 1 in 30 year rainfall event, and so that flooding does not occur during a 1 in 100 (+30% allowance for climate change) year event in any part of a building or in any utility plant susceptible to water.

The applicant will also need to provide a comprehensive maintenance plan for the drainage system in a formal maintenance plan. This should describe who will maintain the drainage, how it should be maintained and the frequency needed to monitor and maintain the system for the lifetime of the development. It is not sufficient to state: “the system is therefore designed to cause a nuisance if the silt traps block, prompting the resident to clear the silt trap.” Examples of suitable maintenance plans can be found at [www.susdrain.org](http://www.susdrain.org).

6. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) ‘Guidance Notes for the Reduction of Light Pollution (2011)’ for Zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council’s Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: **Error! Hyperlink reference not valid.** website: [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)).
7. The site is potentially contaminated. The developer should be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. It is strongly recommended that in submitting details in accordance with the above ‘Potentially Contaminated Land’ conditions that the applicant has reference to CLR 11, Model Procedures for the management of land contamination. This is available online as a pdf document on both the DEFRA website ([www.defra.gov.uk](http://www.defra.gov.uk)) and the Environment Agency ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)) website.
8. The applicant should be aware that whilst the requisite planning permission may be granted, should any complaints be received at any time with regards to noise, vibrations, dust, odour, smoke or light, this does not preclude the Council from carrying out an investigation under the provisions of the Environmental Protection Act 1990.
9. The applicant is advised that advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local

- Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)).
10. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
  11. The water efficiency standard required under condition 26 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
  12. The applicant is advised to contact the East Sussex County Archaeologist to establish the scope for the required Written Scheme of Archaeological Investigation.
  13. The applicant is advised that the landscaping comments made by the County Landscape Architect on the 31st March 2017, the Council's Arboriculturist on the 13th April 2017 and the Council's Sustainability Officer on the 19<sup>th</sup> April 2017 regarding planting of the development should be noted and addressed within the full landscaping details required by condition 31.
  14. The applicant is advised that the Constriction Environment Management Plan should include commitments to implementing appropriate working practices and managing construction vehicle movements to that which avoid peak times and in particular the start and end of the school day for the nearby schools and wheel wash facilities are the site and other mitigation measures.
  15. The applicant is advised that Southern Water have stated that no development or new tree planting should be located within 3m either side of the centreline of the foul sewer, no new soakaways should be located within 5m of a public sewer and all existing infrastructure should be protected during the course of construction works. The applicant can discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)
  16. The applicant is advised that they must enter into a Section 278 Agreement with the Highway Authority prior to any works commencing on the adopted highway. The applicant is advised to obtain technical approval for all estate road details from the Local Highway Authority prior to the submission of such approved details to the Local Planning Authority to discharge condition 21 of this consent.
  17. The applicant is advised for the roads that are to be adopted that they must enter into a Section 38 Agreement with the Highway Authority prior to any works commencing. The applicant is advised to obtain technical approval for all estate road details from the Local Highway Authority prior to the submission of such approved details to the Local Planning Authority to discharge condition 22 of this consent.

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

- 2.1 The application relates to a parcel of land located on the southern side of Ovingdean Road, to the west of Falmer Road (B2123) and to the east of The Vale. The application site comprises approximately 3.72 hectares. Historic maps show that the site has always comprised open agricultural downland.
- 2.2 The boundary of the site is currently defined by a wire fence and posts to the east, west and north and by a hedgerow to the south. The site comprises a large field which has been divided into smaller paddocks for the keeping and grazing of horses. Stables and associated buildings are located in the south-western corner of the site.
- 2.3 Immediately to the north of the site are residential properties, with other horse paddocks/grazing land beyond, known as Ovingdean Road Horse Paddocks. The residential area of Woodingdean is located further to the north-west of the site, with agricultural fields located immediately to the east of the site, on the opposite side of Falmer Road. Residential properties are located to the west/southwest of the site on The Vale. Playing fields, associated with Longhill School/Deans Leisure Centre, are located directly to the south of the site, with the school/leisure centre building, additional school playing fields and Rottingdean village located further to the south.
- 2.4 An area of open grassland with trees is located along the western edge of the site and a densely wooded area located around the southwestern corner of the site, both outside of the site boundary.
- 2.5 The site generally falls across the site from east to west, from between approximately 60m (AOD) adjacent to the Falmer Road (B2123) to approximately 45m (AOD) along the western edge of the site, adjacent to The Vale. To the east of the site and Falmer Road the land rises to an area known as The Bostle. The land to the west of the site and The Vale rises to a ridge (known as Longhill).
- 2.6 Boundaries of the South Downs National Park (SDNP) are located to the east of the site, on the opposite side of Falmer Road, and to the north of the residential properties located on the northern side of Ovingdean Road.
- 2.7 A boundary of the Ovingdean Conservation Area is located to the west of the site, on the western side of Longhill Road whilst boundaries of the Rottingdean Conservation Area are located to the south of the site, either side of The Rotyns.
- 2.8 The nearest Listed Buildings are located to the south of the site on Falmer Road (New Barn Farm) in Rottingdean and to the west on Ovingdean Road in Ovingdean (part of Ovingdean Hall School and The Nook, Flints and The Cottage). Buildings located directly opposite the site, to the north of Ovingdean Road, which once formed part of Woodingdean Farm but have since been converted to housing, are considered to be 'non-designated' heritage assets and as such are included on the Council's adopted local list of heritage assets (adopted June 2015).

- 2.9 The application site is not covered by any designations, statutory or non-statutory, for nature conservation interest. However, Sites of Nature Conservation Importance (SNCIs) are located to the west (Wanderdown Road Open Space), north-east (Cowley Drive Paddocks) and north (Ovingdean Road Horse Paddocks) of the site but these areas do not immediately adjoin the site. Beacon Hill, which is a Local Nature Reserve, is located to the south of the site between Ovingdean and the coast, whilst Castle Hill, which is a National Nature Reserve and a Site of Special Scientific Interest, is located to the north-east, beyond Woodingdean.
- 2.10 The site currently comprises semi-improved neutral grassland, scrub and ruderal vegetation, hedgerow with scattered trees and buildings.
- 2.11 The site is shown as forming part of The Vale character area of Ovingdean, in the Council's Urban Characterisation Study. The Vale is stated to have "very low density housing in a curved street pattern on the ridge of the valley slope, mainly in the form of bungalows, but surrounded by mature planting which gives it a rural feel".
- 2.12 Permission is sought for an outline planning application for the construction of 45 no. new dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, strategic landscaping and part retention/reconfiguration of existing paddocks. A new vehicular access from Ovingdean Road and junction improvements would also be provided. Matters for approval include layout, access, landscaping and scale. One matter reserved for future approval is appearance.
- 2.13 The retained/reconfigured paddocks and an informal area of open space would be located to the eastern part of the site and an additional area of informal open space within the north-west part of the site.
- 2.14 The proposal would comprise of the following residential units (including 40% affordable);
- 1 bedroom x 2 (both affordable)
  - 2 bedroom x 8 (all affordable)
  - 3 bedroom x 16 (including 8 affordable)
  - 4 bedroom x 10, and
  - 5 bedroom x 9

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

- Retention/reconfiguration of existing paddocks,
- The omission of a defined food growing area,
- The omission of a Local Area of Play,
- The relocation of buffer planting to the eastern boundary,
- Enhancement of street tree/planting within site,

- A change in unit types and reduction in garage/parking provision in the centre of the site, which results in a reduction in the eastern extent of the developed area in the centre of the site,
- Extension of the extend of development to the east along the southern boundary,
- An alteration to the mix of units (an additional 5 bed house and the loss of a 4 bedroom house),
- The proportion of red star thistle area retention increased from 5% to 31%,
- The repositioning and an increase in width of the footpath to Falmer Road to 3m and the inclusion of low level lighting.

### 3. RELEVANT HISTORY

**BH2014/02589** - Outline planning application with appearance reserved for the construction of 85 no. one, two, three and four bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space and strategic landscaping. New vehicular access from Ovingdean Road and junction improvements. Refused 29/01/2015. Dismissed at Appeal 29/03/2015.

#### Adjacent Site - Land to East of The Vale

**BH2015/01890** - Erection of 6no three bedroom dwellings (C3), detached garages and 2no detached single storey out buildings. Refused 28.02.2017.

#### Pre-Application

The scheme has been subject to pre-application discussions with officers and was presented to Councillors at pre-application stage on the 12th July 2016.

#### Environmental Impact Assessment (EIA)

Whilst the 2014 refused application was accompanied by an Environmental Statement the current application has been assessed under the Town and Country Planning (Environmental Impact Assessment) 2011 Regulations, as amended and it was concluded that the current application did not constitute Schedule 2 development and as such did not need to be accompanied by an Environmental Statement.

### 4. REPRESENTATIONS

4.1 **Four Hundred and Thirty Five (435)** letters have been received from residents in the vicinity of the site, objecting to the proposed development for the following reasons:

#### 4.2 Design/Visual Amenities/Landscape Impacts

- Development will change character of area, will destroy landscape character,
- Will lead to urban sprawl,
- Suggested mitigation recommendations for eastern boundary appear incompatible,

- Area is not suitable for housing development at all and should not be included in the Council's designated areas for development,
- Site should form part of the South Downs National Park. Proposal will affect view into and out of the South Downs National Park,
- Government attaches great importance to Green Belts (site is not within a Green Belt),
- Deans Preservation Group commissioned a comprehensive Landscape Assessment on the whole of Urban Fringe Site 42 in December 2014, it concluded 'No changes however small can be tolerated because of the natural landscape of the land, its agricultural Open Downs and its classification as a lowland calcareous grassland, with rare landscape elements',
- Proposed screening planting does not appear adequate, and
- Proposed community areas to the east of the site is outside of the urban fringe site, and will be visible from the surrounding areas as an extension to the built up area rather than the open downland that it is now,

#### 4.3 Amenity Issues

- Loss of views/aspect for neighbouring residents,
- Loss of light for neighbouring residents,
- Will destroy a recreation/amenity area enjoyed by all the community, especially horse riders/owners
- The residents of this area live here to avoid living in high density building areas,
- Reduction in quality of life,
- Increased noise and disturbance, including from construction and use of proposed access onto Ovingdean Road,
- Light pollution,
- Overshadowing to existing neighbour residents, and
- Overlooking and loss of privacy to existing neighbour residents,

#### 4.4 Transport/Highway/Access Issues

- The local road infrastructure is currently inadequate so additional traffic will aggravate existing problems
- Query information in submitted transport assessment,
- Increased journey times, affects peoples jobs/home life and businesses,
- Congestion results in increased fuel costs,
- Residents been informed there will already be an increase of heavy good vehicles through area due to the construction works at the County Hospital,
- Concerns regarding access to/from site especially for construction vehicles and emergency vehicles,
- Development residents unlikely to cycle/walk due to topography of this part of the City and the busy/dangerous roads. There are no dedicated cycle lanes
- Increased road/pedestrian/horse rider safety issues/concerns,
- Increased parking demand/problems,
- Poor bus services, especially for school runs,



- Lack of services/employment in area would mean new residents would be reliant on cars, increasing traffic,
- Damage to existing buildings from increased traffic,
- Site inaccessible in bad weather, and
- Includes an area for community growing/allotments but have not taken into consideration where vehicles for this area would park as they could not park in Ovingdean Road

#### 4.5 Other Issues

- Previous application was rejected; same reasons for refusal apply to new application.
- Loss of horses.
- Harm and disruption to wildlife/ecology/biodiversity/insects/plants, some of which are protected/in decline in Sussex.
- Light pollution,
- The proposed maintenance of soft landscaping/screening planting is inadequate,
- Existing lack of trees/ green spaces in City, proposal would result in further loss,
- Site as a local rural landscape is valued and enjoyed by local residents/walkers/horse riders and tourists,
- Gives no guarantee regarding the appearance of the development, design can be easily changed,
- Houses will not be for locals due to size/price, will do little to reduce the demand for housing in the City and will not solve housing needs of those on low incomes,
- Increased air pollution/ poor air quality levels especially in Rottingdean AQMA, levels which are already high/exceed acceptable limits. Any increase in pollution will have adverse impact on people's health, especially school children and the elderly, and subsequently cause an even greater strain on the health service,
- Site is a greenfield site, brownfield sites should be considered for development/refurbishment first,
- There is poor drainage in the area which is prone to flooding, proposal will increase flood risk,
- Patch of Red Star Thistle to be saved is extremely small and is in a spot likely to be damaged by construction traffic,
- Over-development/over-crowding of site,
- Insufficient local services/infrastructure,
- Increased noise pollution,
- Will set a precedent for more inappropriate development in area,
- Would affect tourism to area,
- Query information in Air Quality Report,
- There is not enough protection outlined in these plans for archaeology,
- Proposal must not be considered in isolation. The cumulative impacts of other development approved/proposed in area must be considered especially in terms of pollution, impact on facilities and traffic,

- Council has insufficient funds to take on responsibility of proposed play area,
  - Is contrary to national and local policies especially NPPF/PPG, the Urban Fringe Assessment conclusions and the previous application appeal decision,
  - Other applications in area refused on grounds of harm applicable in this case,
  - Rottingdean Neighbourhood Plan is now at an advanced stage,
  - Area for proposed growing areas would be totally unsuitable for crop or plant growing as it is on a slope where water rapidly drains away, nutrient poor soil-ideal for wild flowers but not vegetable and fruit growing,
- 4.6 Following re-consultation of the revised plans and documents, received on 24th March 2017, **One Hundred and Ninety Two (192)** further representations from residents in the vicinity of the site objecting to the revised proposal on the grounds set out within the original objections received and that the revised scheme does not address or overcome the previously raised objections.
- 4.7 **Councillor Mary Mears: Objects** Letters dated 16/11/2016 and 20/04/2017 following receipt of amendments are attached.
- 4.8 **Simon Kirby MP: Objects** 18/10/2016 and 11/04/2017 following receipt of amendments on the following grounds;
- Does not believe the site is at all suitable for housing development,
  - Council needs to be looking at brownfield and town centre sites where infrastructure is already available, long before considering greenfield sites,
  - Concerned that housing development is being considered in this location with existing facilities already overstretched, such as packed buses, the A259 being very congested main road, the ability of local health services to cope with more patients and the issue of school places in the City,
  - Potential loss of the village feel in Ovingdean, Rottingdean and Woodingdean. Amendments show that the footprint of the site will be larger and that open space on the development will be reduced,
  - Clear that the developers were turned down last time for 85 houses, they are now coming back with a number that they hope will be more acceptable, however the basic objections remain, and
  - The impact any housing development will have on this area would be detrimental. This land is adjacent to the National Park which must give pause for thought.
- 4.9 **Brighton and Hove Wildlife Forum: Objects.** This site is, in part, rare, lowland calcareous predominantly unimproved species rich grassland with a high diversity of flowering plants. Is included in the South Downs Way Ahead Nature Improvement Area, and is listed as a stepping stone for other local species rich wildlife sites. It is also part of a Biodiversity Opportunity Area in the city green network, which represents a priority area for the delivery of Local Biodiversity Action Plans (LBAPs), so the landscape connectivity is hugely important in this case.

- 4.10 The site is abundant with seeds and invertebrates so provides ample feeding opportunities for a wide range of birds. A large number of birds are recorded at the Records Centre to be actually using the site, along with other notable plants and invertebrates. Among the rare species known to be on the site are the "Red Star Thistle", and the "Cut-leaved Self Heal". It is known that there are almost 400 species of nationally notable invertebrates recorded. A full and proper National Vegetation Classification assessments has been carried out by Arbeco Ltd and they have described it as species rich, mostly unimproved grassland. To emphasise this fact, the Sussex Wildlife Trust is currently pressing for the site to be given Local Wildlife Site status.
- 4.11 Council has a legal duty under Section 40 (S40) of the 2006 Natural Environment and Rural Communities (NERC) Act to have regard for biodiversity in exercising their functions. This duty covers the protection and restoration of habitats and species under Section 41 (S41) and which are congruous with Paragraph 117 of the NPPF.
- 4.12 There does not seem to be have been sufficient investigation to assess development impact on populations of rare and endangered invertebrates here. Object to the proposed development in view of the harm to biodiversity that would ensue.
- 4.13 In addition to this, the City is already full up, of course, and the local infrastructure and services, including hospitals/doctors/schools etc cannot properly cope now.
- 4.14 **Buglife: Objects** There is insufficient information to assess development impact on populations of rare and endangered invertebrates. Until this work is carried out it is impossible to assess the full impact of the development on wildlife or plan an effective mitigation or compensation scheme. Consequently this application does not meet the biodiversity aims of the NPPF.
- 4.15 Disagree with the applicant's assessment of the invertebrate interest on site. Parts of the site contain a number of Lowland calcareous grassland indicator species. It is well documented that East Sussex has experienced catastrophic losses of chalk grassland over the past couple of centuries and it is crucial to protect the remaining resource. It is also worth noting that grassland with a high diversity of species (in botanical terms) is not required to support populations of rare insects - composites, umbellifers, bird's-foot-trefoil and vetches in adequate numbers can provide a good resource of nectar and pollen.
- 4.16 Extensive invertebrate surveys have been carried out, commissioned by a local interest group. This survey found 400 species of invertebrate and other important species that indicate that the site is of conservation interest.
- 4.17 Should planning permission be granted it is vital that a full invertebrate survey following the Natural England guidelines is carried out so that the biodiversity impacts of the development can be fully assessed and an appropriate mitigation strategy defined.

- 4.18 **CAG** Recommend refusal on the grounds that a rural gap should be maintained between the two historic villages.
- 4.19 **Campaign to Protect Rural England** Objects on the grounds that the proposal is contrary in principle to adopted planning policies and also on the grounds of its visual and landscape impact and biodiversity impact. Although a new application with a reduced housing number has been submitted, our objections to the previous application still stand.
- 4.20 In terms of Policy SA4 the proposed development is not on a site allocated for development, a countryside location cannot be justified, the proposal does not adequately pay regard to the downland landscape setting of the city and there is not enough information provided in the application to satisfactorily demonstrate how adverse impacts would be appropriately mitigated. Therefore, this application is contrary to Policy SA4 and should be refused. The 2014 Urban Fringe Assessment, recognises that there could be significant adverse impacts to development of this site. Development at this site should therefore be resisted.
- 4.21 Believe that this site is a Valued Landscape. Although the application site does not lie within the designated South Downs National Park, it is within its setting and actually lies between three closely adjacent areas of the National Park; Beacon Hill and Mount Pleasant Nature Reserves close by to the west and the wider National Park directly adjacent to the east which is an important consideration. Critically, a development does not have to be within a National Park to have an impact on its landscape and scenic beauty and thereby be subject to the national planning policy for such areas set out in paragraph 115. The South Downs Integrated Landscape Assessment identifies that the landscape is sensitive to changes beyond the South Downs boundary.
- 4.22 The conclusion of the LVIA is that the development would have a minor or moderate beneficial effect on local landscape character, however it is not clear how this conclusion has been drawn or how the proposed mitigation would be effective in achieving this. There is also not a clear assessment of the Special Qualities of the National Park which are of relevance to this application.
- 4.23 The application site is clearly within the setting of the National Park and would cause unacceptable harm to that setting and would not conserve or enhance the visual and landscape quality and character of the National Park.
- 4.24 The development of this site would result in the loss of lowland calcareous grassland and its associated biodiversity value and the loss of the Red Star-thistle, Hornet Robber Fly and four other NERC Section 41 species, and habitat for a range of other species. It would therefore be contrary to the Brighton & Hove Sustainability Action Plan, the Brighton & Hove Local Biodiversity Action Plan, the National Planning Policy Framework and the UNESCO Biosphere status.
- 4.25 **Deans Preservation Group:**

Original comments 21/11/2016 Objects The net benefits do not outweigh the adverse impacts and therefore the application is unsustainable on a number of grounds and must be refused, as required by NPPF.

- 4.26 The proposal is wholly inappropriate and unsustainable in this location for the following reasons:
- Valuable and unique ecology would be destroyed. The applicant has carried out incomplete surveys of the site, has not consulted up-to-date records and as a result has vastly downplayed the site's ecological importance.
  - The green gap between the villages of Ovingdean & Rottingdean would be eroded
  - There would be an increase in already unacceptable traffic and pollution levels
  - It would cause serious harm to a valuable landscape
  - A large dense housing estate on this site would be out of keeping with the character of the area
  - It would place unacceptable burden on the already overstretched infrastructure
  - Foul water flooding from the proposed development is a major unresolved problem glossed over by the applicant
- 4.27 Do not accept the conclusions of the Urban Fringe Assessment 2015 that the site has potential for development. The landscape and ecology assessments have been given insufficient weight and are based on out-of-date information.
- 4.28 In the Scoping Consultation for City Plan 2, held in 2016, the public was asked which wider criteria should be used for assessment of urban fringe sites. These wider criteria may be adopted for assessing Urban Fringe Sites in the future when City Plan 2 has progressed further. With this application the site has not yet been given a chance to be assessed against such wider criteria. If the Application Site is reassessed taking into account the latest information on landscape and ecology together with other factors such as infrastructure, traffic and air pollution it is likely that the site will be recognised as not being suitable for any development.
- 4.29 The group have submitted their own following reports as part of their objection;
- A Preliminary Ecological Appraisal/National Vegetation Classification Survey (by Arbeco Ltd dated November 2016). Within the survey conclusion it is stated that "Surveys have shown Meadow Vale to be a diverse and important site with species and habitats that would have been included in the Local BAP and used as part of the bid to UNESCO for Brighton and Hove and the surrounding areas to be designated a Biosphere Reserve" and "Sites with priority habitats, an extensive assemblage of notable species, good populations of Red Data Book / Section 41 / BAP species and very large numbers of species recorded should be 'ring-fenced' for protection. Assemblages such as seen at Meadow Vale take time to accumulate and therefore there is no appropriate mitigation or compensation for such outstanding biodiversity".

- A Review of Aspect Ecology Ecological Appraisal (by Arbeco Ltd dated December 2016). Within the conclusion it is stated that "Unfortunately, due to lack of survey effort, the potential loss of biodiversity should the development go ahead, would be orders of magnitude greater than proposals to compensate or mitigate" and "Ultimately, the conclusion is based on an assumption of poor grassland habitat that is used by a limited assemblage of invertebrates; it cannot therefore be accepted. Aspect Ecology has failed to assess and survey the site in accordance with basic survey techniques and professional expectations. In doing so they have given a false account of an ecologically important site",
- A Survey of Insects and other Invertebrates (by Peter Hodge Consultant Entomologist) in which it is stated that "The site is dominated by insects associated with grassland habitats, several of which are considered to be indicators of unimproved calcareous or neutral grassland. A remarkable assemblage of insects was recorded, including a number of scarce species" and
- A Landscape Visual Impact Assessment (by Landvison Consultants dated March 2015). Within the conclusion it is stated that "No changes however small can be tolerated because of the natural landscape of the land, as agricultural Open Downs and its classification as a lowland calcareous grassland, with rare landscape elements. This is land of value in terms of history, cultural heritage, unique landform characteristics and with an intactness of landform which is highly representative of the Open Downs LCA, Adur to Ouse Open Downs landscape character and landscape type A2. It is a classic example of a piece of land which should never be developed".

4.30 Additional comments 29/12/2016 following receipt of further information from agent Objects Sufficient time should be allowed for Group's ecologist to respond to the additional Aspect Ecology comment received, who will be able to highlight important areas where Aspect Ecology document has reached misleading conclusions because of inadequate survey and reporting techniques.

4.32 Request that the City Plan Part 2 should take notice of the Arbeco report and re-classify Urban Fringe Site 42 as not suitable for any development. In the application it is implied that all is necessary to gain approval is improved mitigation measures. This is not the case. It has always been the intension of the Council to use the development of City Plan 2 and the planning process as a means of carrying out more detailed assessments of Urban Fringe sites where necessary.

4.33 In his Appeal Report (in March 2016) in the section on "Ecology" the Government Inspector noted concerns from B&HCC "that it has been unable to address the likely impacts of the development, and the likely effectiveness of mitigation, due to an absence of information" (paragraph 41).

4.34 At the time the appeal Inspector wrote his report both he and the Council had access to only three 'ecological reports' on the site. It is recognised that these

reports are either at the overview level or only partially complete, and none of them provided the "detailed information requirements" called for in SA4.

- 4.35 The deficiencies in the application has been filled by the Group's own studies, studies which meet policy SA4's requirements.
- 4.36 13/01/2017 Additional comments from Group's Ecologist The applicant's Ecologist have based their assumptions on in-house surveys with flawed methodology, insufficient survey effort and omissions of records from the desktop survey provided by the Sussex Biodiversity Records Centre.
- 4.37 **Environment Agency** No comments to make on the proposal.
- 4.38 **Longhill Woodland Group** Object on the following grounds,
- Ecology, site is home to numerous identified species, many protected and declining and site is recommended as a local wildlife site,
  - Landscape, site is a former Area of Outstanding Natural Beauty in an Area of Important Landscaping Value (AILEV) and should have been designated as part of the South Downs National Park. Development is far too dense, not been clearly defined (and is open to radical change) and not in keeping with the area. It will be an eyesore and very visible from parts of the South Downs National Park,
  - Infrastructure, there is a lack of school places in the area and dentists and doctors surgeries are full,
  - Traffic, Council have made it clear there is no budget to help ease the flow of traffic in Ovingdean and another 45 homes with potentially 100 more cars is going to make an already unacceptable situation worse,
  - Air Quality, local shopping area is in the Rottingdean High Street where air quality is already above EU recommended levels, adding more cars could cause real problems for residents, some of which are elderly and vulnerable to respiratory problems,
  - Suggest this site is immediately designated as part of the SDNP as it should have been, to protect this precious grassland from inappropriate development.
- 4.39 **Ovingdean Residents and Preservation Society:** Object on grounds that this is the second time that an application has come forward on this site and stance is as before, there should be no building on it. This is a lovely piece of land that acts as a scenic gateway to village. Once built upon it continues the urbanization of outer Brighton and will in effect join two historic villages Ovingdean to Rottingdean. More specifically object to it because;
- a) This area is of outstanding natural beauty and landscaping value next to the South Downs National Park. It acts as part of a Wildlife corridor one of the few green fingers left in the City connecting the South Downs to the coast,
  - b) In ecological terms the area is valuable grassland and supports a huge range of flora. It is a Nature Improvement Area. Are in danger of losing another valuable nature site to the city, threatened again by inappropriate development,

- c) The outline nature of the application gives the developers the ability to effectively build what they like. This could lead to a development way out of keeping to its surroundings, especially as a previous application for more houses has been turned down. The proposed housing density is much greater than surrounding areas as it and the high value of the houses will do little to reduce the demand for housing in Brighton,
  - d) The scheme will increase traffic noise and pollution on surrounding junctions, especially Rottingdean High street, and
  - e) It will add to the infrastructure problems in the area such as lack of school places, dentist, doctors etc, a demand which cannot meet at present.
- 4.40 **Rottingdean Preservation Society Object** is strongly of the view that this development will have a seriously detrimental impact on the key strategic gap provided by the National Park around Ovingdean and Rottingdean. The two villages are unusual in being 'Downland' villages close to the coast.
- 4.41 Rottingdean is unique in having village characteristics and yet surrounded by the South Downs National Park and further having a key element of the National Park not only within the Parish but actually down to the sea. This continuous 'green' stretch immediately to the north of Meadow Vale provides the essential link between the South Downs, Beacon Hill and the coast.
- 4.42 Proposed development will alter drastically the perspective across to the south west from the Downs above the Balsdean area. Further, it will make a mockery of the strong cross party support that Brighton & Hove City Council gave for the National Park by in-filling an important component of the green areas around these two villages.
- 4.43 28/03/2017 Following receipt of further information/ minor amendments Objects Development on the site alters the setting of Rottingdean Parish as an historic Downland Village. The applicant's Historic Study clearly demonstrates that this green gap is critical to the visual linkage of the South Downs National Park from the west to the east of Falmer Road. Further, increased traffic movements will seriously affect air pollution in the High Street of Rottingdean and add to the congestion at both the junctions in Woodingdean and with the A259.
- 4.44 **Saltdean Swimmers Object** on the following grounds;
- Traffic from the development will contribute to the dangerous air pollution in Rottingdean, which has breached safety levels with regards to nitrogen dioxide for the past 5 years,
  - Effects from air pollution on health,
  - Lack of appropriate infrastructure,
  - Negative effect on the village of Ovingdean,
  - Loss of habitat of lowland calcareous grassland which plays an important part in conservation and biodiversity of species,
  - Planning law, including requirements of the Local Plan, the NPPF and the Environmental Protection UK - Development Control Planning for Air Quality 2010 Update,
  - Brownfield sites, must be put to good use before building on greenfield sites,



- Exacerbation of existing traffic problems, at expense of people's health,
- 4.45 **Sussex Botanical Recording Society Objects** on the grounds that the Red Star Thistle is an IUCN Critically Endangered species. There can be no justification for the destruction of what is arguably the best population of this very rare plant in the UK. The proposed mitigation is therefore irrelevant.
- 4.46 No species, however, exists as an isolated phenomenon. The site has by now been studied carefully and monitored for a number of years and clearly supports a very special community of plants, fungi and animals. There are other rare plant species, notably Cut-leaved Self-heal, together with some very important insect species. The Aspect Ecology survey of this site is not as detailed or indeed as expert as those undertaken by other organisations and individuals.
- 4.47 The situation of Meadow Vale is also of vital importance. It is accepted that it is no longer satisfactory merely to hive off small, isolated 'nature reserves' to protect rare and endangered species: ultimately the biodiversity vital to the planet can only be preserved by providing corridors to connect up sites and allow the movement of genes between populations. On the edge of the South Downs National Park and close to other protected areas in this part of Brighton and Hove, Meadow Vale is of strategic importance.
- 4.48 If all of the above did not amount to an overwhelming argument against development (or, more accurately, destruction), the site is Lowland Calcareous Grassland, a Habitat of Principle Importance under Section 41 of the Natural Environment and Rural Communities Act 2006.
- 4.49 **Sussex Wildlife Trust Objects.** Recognise that the site came forward as suitable for some development in the urban fringe assessment however the assessment dated November 2015 states "it is not possible to confirm the value of the Study Area of notable and protected species in the absence of detailed surveys."
- 4.50 Since publication of the UFA understand that the Deans Preservation Group has commissioned a detailed survey of the site. As specifically recommended in the UFA these include a Phase 1 ecological survey with a detailed National Vegetation Classification survey. The results of these demonstrate significantly greater levels of biodiversity than the report submitted by the applicant.
- 4.51 The planning system has a significant role in meeting the Government's international commitments and domestic policies for habitats, species and ecosystems, and it is essential that biodiversity is given due regard in the planning process. The applicant has submitted an ecological appraisal that has been updated since planning permission was sought on the site previously. However are concerned that the conclusions drawn by the applicant's ecological appraisal fail to reflect the true value of the site's biodiversity.
- 4.52 One of the plants present on site is Red Star Thistle, classified as IUCN critically endangered and listed under section 41 of the Natural Environment

and Rural Communities Act 2006 and as LBAP species. The Sussex Biodiversity Record Centre holds information for the application site which shows over 4,000 plants on the site in 2016. Are concerned that the change in management of the site as a result of this proposal would negatively affect this species and result in the Council failing to deliver development that is compliant with policy CP10 biodiversity in the City Plan Part One.

- 4.53 The site also supports Cut-leaved Selfheal and Hybrid Selfheal, both of which are on the Sussex Rare Species Inventory and the Sussex Scarce Corky Fruited Water-dropwort.
- 4.54 The UFA requires robust mitigation measures to address impacts on protected species. Would also like BHCC to consider the suitability of the Red Star Thistle mitigation strategy submitted within the ecological appraisal. The mitigation strategy seems to be working on the old data for locations of Red Star Thistle and not the most update information held by the Sussex Biodiversity Record Centre. Red Star thistle on site donor and receptor sites appears to be working on the old housing numbers and layout. Would also suggest the receptor sites need to be looked at again to ascertain their current suitability. As the documentation appears to be so out of date, in its current form the mitigation strategy is not robust enough to proceed with development.
- 4.55 The invertebrate value of the site also seems to be seriously under estimated by the applicant.
- 4.56 Information is available that shows that the site has considerably more biodiversity value than the information submitted as part of the application indicates. Suggest that determining the application in its current form would not conform to the NPPF.

## **5. CONSULTATIONS**

### **5.1 External**

5.2 **Brighton and Hove Archaeological Society:** Comment Ovingdean is an area rich in archaeological and historical remains. Field walking around Ovingdean has produced finds from the Neolithic, Iron Age and Roman periods. The field to the north of St Wulfran's Church contains the remains of a 13th century medieval farmstead and possible manor house and, an enclosure possibly dated to the Roman period lies in fields to the south of the church. Other finds in the area have included a number of Anglo-Saxon burials.

### **5.3 County Archaeologist:**

Comment 19/10/2016 The proposed development is situated within an Archaeological Notification Area defining an area of prehistoric and Romano-British activity, including settlement.

5.4 The site has been subject to an archaeological geophysical survey, which indicates the site does not contain remains of national importance, however the survey did identify a number of potential features of archaeological interest. Mitigation of damage to below ground archaeological remains will therefore be

required, the first phase of which will need to comprise evaluation excavation, prior to any building works or site preparation commencing.

- 5.5 In the light of potential for loss of heritage assets on this site resulting from development the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any Archaeological deposits and features, disturbed during the proposed works, to be adequately recorded.
- 5.6 Comment 11/04/2017 following receipt of amendments Have no further comments to make.
- 5.7 **County Ecologist:** Comments 22/11/2016 The proposed mitigation is considered insufficient to offset the impacts of the proposed development on biodiversity.
- 5.8 Comments 17/04/2017 following receipt of amendments and additional information The comments are provided in the context of the appeal decision. In relation to ecology, the Inspector concluded that "subject to full and further details of proposed mitigation consistent with such measures as indicated by the Fringe Assessment, the proposed development would not be harmful to the ecological significance of the site".
- 5.9 Since the appeal hearing, further surveys have been carried out on site, including updated National Vegetation Classification (NVC) and invertebrate surveys. Whilst there is still some dispute over the exact nature of the grassland, it is undisputed that the grassland is species rich and shows good botanical and invertebrate diversity.
- 5.10 The Ecological Appraisal Addendum (March 2017) states that corky-fruited water-dropwort should be considered absent, based on the fact that it was not recorded during the Aspect Ecology surveys and that records were not returned from the Sussex Biodiversity Record Centre. The latter resulted from the fact that the species is no longer listed on the Sussex Rare Species Inventory as it is no longer listed as Nationally Scarce. Records for the species therefore need to be specifically requested. The species remains listed as being Sussex Scarce (occurring in less than four sites in either vice county) and was last recorded on site in 2014. It should therefore not be considered as absent from the site. However, the current proposed mitigation is considered to be adequate for this species.
- 5.11 The Addendum to the Ecological Appraisal (March 2017) has addressed previously submitted comments in relation to likely impacts on ecology as well as in combination and cumulative impacts with the proposed development for the adjacent site. Proposed mitigation has been adapted accordingly.
- 5.12 Provided the recommended mitigation measures are implemented, it is recommended that the proposed development can be supported from an ecological perspective. Conditions should be secured for detailed mitigation

strategies for red star-thistle and reptiles, for an ecological design strategy and for ongoing management of habitats on and off-site.

5.13 **County Landscape Architect:** Comment 10/11/2016 In the Appeal Decision on the application for 85 houses on this site the Inspector did not place the site in the category of bring a valued local landscape in the sense intended by the NPPF. He did however state that:

'...notwithstanding the limited inherent landscape quality of the appeal site, its existing open form and character are significant features in contributing to the distinctiveness of the setting. '

5.14 The landscape character assessment as provided in the Landscape and Visual Impact Assessment is an accurate assessment of the baseline landscape of the site and surrounds. However there are two elements of the landscape of the application site which need further emphasis:

- The wooded nature of much of the undeveloped area of Happy Valley to the north is a key characteristic locally. This character is extended along the western boundary of the site.
- The contribution that the open form and character of the site makes to the transition from open downland to the built up edge of Ovingdean.

5.15 The proposed alignment of the housing development across the western part of the site could have acceptable landscape and visual effects if adequately and appropriately mitigated.

5.16 The proposed location of the Local Area of Play and need for community food growing needs further consideration.

5.17 The landscape masterplan should be reviewed to ensure that the development can be integrated into local landscape setting and to minimise the adverse effects on the surrounding national park landscape.

5.18 It is recommended that the application can be supported in principal subject to the changes to the public open space proposals and the landscape masterplan as outlined above.

5.19 Comment 31/03/2017 following receipt of amendments The revisions to the proposed development have addressed concerns with regards to landscape and visual impact. It is recommended that the development can be supported subject to consideration of suggested modifications to the detailed planting proposals.

5.20 **Natural England:** Comment Site lies directly adjacent to the National Park boundary and is located within its setting. The site is in a sensitive location and therefore requires a robust assessment of any potential Landscape and Visual Impacts which could arise should the site be subject to development. Note that the application includes a reduction in the number of houses which were

proposed in previous applications at this site and for which Natural England made substantive comments.

- 5.21 Having assessed the information provided in support of the current application advise that additional information is required on landscape character, special qualities of the South Downs National Park, viewpoints selected and landscaping.
- 5.22 National Parks have been confirmed by the Government as having the highest status of Protection in relation to landscape and scenic beauty. Paragraph 115 of the NPPF states clearly that;
- "Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.<sup>25</sup>"
- 5.23 The South Downs National Park Authority should provide expert landscape advice on any implications the proposal has on the Special Qualities of the South Downs National Park and its reasons for designation.
- 5.24 Have not assessed this application and associated documents for impacts on protected species.
- 5.25 **Rottingdean Parish Council:** Object Whilst note the reduction in the number of proposed units and higher proportion of affordable homes, the objections made to the previous application are considered equally relevant to latest proposal to build on this green space. Space which has long enhanced distinctive village communities and all the recognised benefits that local community ownership and identify bring.
- 5.26 Believe that should the development go ahead it will significantly erode the character of the area leading to an urban sprawl that blurs the valued identities of the Ovingdean and Rottingdean communities. This development will have the effect of closing the strategic gap which maintains the connectivity of both localities with the South Downs National Park.
- 5.27 Ecological Issues - Whilst the green space now allowed to the east of the site reduces the impact upon the ecological issues originally raised, there remains concern that the area could lose grassland which is currently used by wildlife as a source of food. Once building commences many of the natural calcareous grassland species will be destroyed forever.
- 5.28 Flooding - remain concerned about the amount of hard standing and number of houses. Whilst soakaways are planned, parish councillors are still concerned about the impact further down the valley.

- 5.29 Traffic and air pollution - Whilst the developers state that there will be minimal increase in air pollution they have included in their plans two parking spaces for each property. While there is a bus service, this is currently run only three times an hour. The number of cars coming into Rottingdean will no doubt be increased resulting in higher pollutants in the already designated AQMA. Maintain that the objections to earlier applications are still relevant in terms of adding to existing levels of road congestion, especially at peak times.
- 5.30 Technical assessment - request that traffic and air quality assessments of the impact of this development take into full consideration the other major proposed developments at St Aubyns, Land behind Falmer Avenue, 67 Falmer Road and Lewes District Council proposals indicating development of 450 homes for Peacehaven.
- 5.31 Infrastructure - The impact on local infrastructure and services remains a major concern given further large scale developments proposed for other sites. Overall the cumulative impact - within a short time frame - if these developments proceed is to increase current housing stock in Rottingdean alone by 10%. The infrastructure is simply not able to sustain this level and pace of development.
- 5.32 Whilst the Secondary school in Rottingdean has places, local Primary schools have no spare capacity and GPs are oversubscribed. There are no shops close to this development and people will need to travel to Brighton or Rottingdean for provisions increasing traffic on already congested routes.
- 5.33 Developer contribution - Should consent be given request S106 Agreement giving account to RPC's locally determined priorities contained in its recently circulated 2016 Infrastructure Project List.
- 5.34 Meeting housing need - is aware of need to designate suitable sites for more housing. However, this locality has already provided for more new homes - when looked at in percentage terms - than the wider City area. Until recently, this has been through incremental growth over a longish timeframe which at least has allowed time for the associated infrastructure needed to support increasing occupation.
- 5.35 Emerging Neighbourhood Plan will indicate potential development sites to allow for the growth that is needed over the next 15 years. This should be incremental wherever possible on brown field sites to eliminate the need to use Urban Fringe (green) Sites.
- 5.36 There is already a Planning Brief agreed for a brown field site within the village and there are other brown field sites that may come available which negates the need to build on this meadowland that forms a valued and important natural space enhancing both villages.
- 5.37 Objection 06/04/2017 and 17/04/2017 following receipt of amendments Draws attention to the very limited ecological information that was previously available to the Appeal Inspector's conclusions on the principle of residential

development in this location. The Council is aware that newer in-depth studies have since been undertaken which are at odds with the ecology results presented at the time of the Appeal.

- 5.38 The emergence of the new and more comprehensive information represents the most significant ecological assessment produced to date on Meadow Vale. The Parish Council agrees with the Deans Preservation Group who submitted the independent, ecological survey and appraisal work, that this changes the perception of the field as being suitable for even partial development.
- 5.39 Have previously objected at length to many cumulative and detrimental effects seen by residents from the loss of this green space which has long enhanced distinctive village communities. The Parish Council view, reinforced by detailed technical evidence, is that a development of 45 housing units will significantly erode the sensitive natural environment of the area, and destroy an important area of wildlife habitat.
- 5.40 **SGN Gas Networks:** Comments 25/10/2016 and 04/04/2017 following receipt of amendments Note the presence of Low/Medium/Intermediate pressure gas main near the site. There should be no mechanical excavations taking place above or within 0.5m of the low/medium pressure system or above or within 3m of an intermediate pressure system. Should where required confirm the position of mains using hand dug trial holes.
- 5.41 **South Downs National Park Authority** Comment Are mindful of the recent appeal decision at the site and the Inspector's conclusions on the principle of residential development in this location relative to the impact on the National Park Setting.
- 5.42 Considers that the proposals are much improved on the previous scheme and note that the number of dwellings (45) is now in line with that recommended in the 'Further Assessment of Urban Fringe Sites 2015' which the Planning Inspector afforded significant weight. Would recommend however that the area of open space to the east of the proposed housing is kept as informal as possible. The landscaping plans currently submitted show a local area of play, community growspace and amenity greenspace which are formalised in appearance and therefore quite incongruous in this edge of downland setting. Would prefer that the whole of the open space area to the east of the housing is retained and enhanced as chalk grassland surrounded by wooded hedgerow. Note that a similar request has been made by the County Ecologist.
- 5.43 Has not assessed the application and associated documents for impacts on protected species and biodiversity and would recommend that the application should be determined on the basis of the conservation advice of the County Council Ecologist.
- 5.44 In order to support the second purpose of the National Park, consideration could be given to an off-leash area for dog walkers within the open space area, and a circular walk.

- 5.45 **South Downs Society:** Object Society responded to two previous applications for 100 and 85 dwellings on this site and set out its concerns believing that this land, adjacent to the South Downs National Park, is unsuitable for such development due to the potential negative impact. Remind the City Council of its statutory duty under Section 62 of the Environment Act 1995 to have regard to the designation of the park.
- 5.46 Following the Inspectors Report into the City Plan Part One a revised Urban Fringe Assessment 2014 (as amended) was prepared with the need to identify a number of urban fringe sites that may be suitable for development to meet housing needs. This UFA concludes that this site has a potential for development of 45 dwellings at low density. However, it is the City Plan Part 2 that will provide actual site allocations and, while the initial consultation has taken place, it has yet to be adopted.
- 5.47 Importantly, this site abuts the boundary of the National Park and is part of the downland backdrop to Ovingdean and the setting of the Park. Whilst welcome the Landscape and Visual Impact Assessment, this application is with appearance being reserved. The actual degree of any adverse effect on views in and out and the setting of the Park can therefore not be fully determined at this stage.
- 5.48 Harm to the environment and the Park extends beyond any adverse visual effect and includes the impact from additional traffic movement with the associated increase in noise and pollution. Council will be aware of the existing high levels of traffic on Falmer Road and the reported levels of pollution in Rottingdean. In addition, tranquillity and dark skies are potentially dissolved further. Can find little in the application that sets out how the development contributes towards conservation and enhancement of the adjacent National Park.
- 5.49 Unless Authority considers that the benefits of proposed development at this location to meet the need for new housing outweigh the likely harm to the environment and the setting of the National Park, then believe this application should be refused.
- 5.50 **Southern Water:** Comment The exact position of the foul sewers must be determined on site by the applicant before the layout of the proposed development is finalised. No development or new tree planting should be located within 3m either side of the centreline of the foul sewer, no new soakaways should be located within 5m of a public sewer and all existing infrastructure should be protected during the course of construction work.
- 5.51 Due to changes in legislation that came into force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served and potential means of access before any further works commence on site.



- 5.52 The results of an initial desk top study indicates currently cannot accommodate the needs of the application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the NPPF.
- 5.53 Following initial investigations can provide a water supply to the site.
- 5.54 If approved recommend conditions regarding sewerage infrastructure and means of foul and surface water sewerage disposal.
- 5.55 **Sussex Police: Comment** Very pleased to note that the Design and Access Statement gave mention to the crime prevention measures to be incorporated into the design and layout. The NPPF demonstrates the government's commitment to creating safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Design and Access Statements for outline and detailed applications should therefore demonstrate how crime prevention measures have been considered in the design and layout of the development.
- 5.56 The development's design has created outward facing dwellings with back to back gardens, which in turn has created good active frontage with the streets and the public areas being overlooked. Additionally this design has eliminated the need for vulnerable rear garden pathways.
- 5.57 Parking has been provided for with in-curtilage, garage and on street parking bays, all which are overlooked and have natural surveillance. This should leave the street layout free and unobstructed.
- 5.58 External doors along with any ground floor or any easily accessible windows are to conform to PAS 024-2012 or their equivalent.
- 5.59 Comments 12/04/2017 following receipt of amended plans Note there has been a small change in location to some of the dwellings and that the adjacent green space has been allocated to horse paddocks and an informal open space.
- 5.60 Only comment would be to make the applicant or their agent aware that where the turning head has been introduced adjacent to the footpath link to Falmer Road. Consideration should be given to the misuse of this turning head being used as a car parking area for visiting persons using this pathway link, to access the walking opportunities on the downs. This has the potential to cause congestion within the development.
- 5.61 Previous comments remain extant with further in-depth crime prevention advice being delivered at reserved matters.
- 5.62 **UK Power Networks: No objection**
- 5.63 **Internal**
- 5.64 **Arboriculturist:**

- 5.65 Comments 2/12/2016 Development will result in the loss of one large Wheatley Elm from the highway along with some other minor scrub trees of little arboricultural value.
- 5.66 Provided the access road can be relocated to prevent the loss of this large prominent roadside tree then there is no objection. Without this change would recommend that consent is refused.
- 5.67 Comments 9/01/2017 following receipt of revised Arboricultural Survey Have no objection to the last amended scheme as this makes provision for the retention of the roadside Elm located close to the entrance.
- 5.68 17/04/2017 following receipt of amendments and additional information Has no objection to the latest amended scheme as this makes provision for the retention of the Roadside Elm located close to the entrance. The comments from the County Landscape Architect are also welcomed and broadly agreed with.
- 5.69 **City Regeneration:** Support the application from the perspective that it will provide additional homes for the city and contribute to addressing the ongoing challenges the city faces in respect of its housing needs.
- 5.70 Should the application be approved, developer contributions of £20,500 towards the council's Local Employment Scheme are requested through a S106 Agreement. In addition, an Employment and Training Strategy will be required which should be submitted for approval 1 month before commencement. The Employment and Training Strategy should set out how the developer or their main contractor will provide employment and training opportunities for local residents, with the developer committing to using an agreed percentage of local labour. It is proposed for this development that the minimum percentage of 20% local employment is expected for the demolition (where appropriate) and construction phases of the development.
- 5.71 04/04/2017 following receipt of amendments Comment The changes do not impact on the developer contributions requested towards the Local Employment Scheme as all dwellings for over and including 3 bed, generate a developer contribution request of £500 per dwelling.
- 5.72 **Education Officer:** Comment Would seek a contribution towards the cost of providing educational infrastructure for the school age pupils this development would generate. In this instance would be seeking a total contribution of £251,353.00 in respect of primary (£105,097.40) and secondary provision (£146, 255.60).
- 5.73 This calculation is based on 45 units. Ovingdean is a fairly distinct community and is not within the main part of the city. As a result of this there is limited choice in terms of local schools. The primary provision would be likely to be spent at Saltdean Primary School, Our Lady of Lourdes RC Primary School, St Margaret's C E Primary School, Rudyard Kipling Primary School and / or Woodingdean Primary School as they are the closest primary's to the

development. These school currently offer a total of 1,770 places and there are currently 1,681 pupils on roll at these schools. This offers a surplus of just 5% (the majority of which is in the junior year groups) which is required to allow for parental preferences and in year admissions. It is expected by the DfE that the council should maintain between 5% and 10% surplus places to allow for parental preference. A development of residential units will have a serious impact on the school places issue in this part of the city and parents will have no choice whatsoever.

- 5.74 This proposed development is in the catchment area for Longhill School in terms of secondary places. While there is currently some surplus capacity at Longhill with the recent growth in primary numbers know that this will not remain the case for much longer. Consequently would also be seeking a contribution for secondary should this development proceed.
- 5.75 30/03/2017 following receipt of amendments Comment Confirm that the change in units makes no difference to the number of pupils generated by the development or the contribution that would be sought if the development was to proceed.
- 5.76 **Environmental Health:** Recommend Approval subject to conditions regarding land contamination and lighting and the provision of a CEMP.
- 5.77 Contaminated Land: A previous desktop study for this location concluded that the site is considered to have an overall low or very low potential from remnant contamination.
- 5.78 However, given the size of the development, the new residential usage, the potential human receptors to contamination (construction workers and future site occupier's), further geotechnical investigation is required. The report recommends that 'check' contamination analyses are undertaken to confirm a conceptual model and allow a generic quantitative risk assessment to be undertaken. This model should then be used to determine any appropriate remedial works or design features, if proven to be necessary. Further contaminated land investigation needs to be carried out before development begins and as such, must be a condition of any consent granted.
- 5.79 Lighting: Artificial light if not properly controlled, causing obtrusive light, can present serious physiological and ecological problems. Obtrusive Light, whether it keeps someone awake through a bedroom window or impedes their view of the night sky, is a form of pollution, which may also be a nuisance in law. However, it can be substantially reduced without detriment to the lighting task.
- 5.80 Sky glow, the brightening of the night sky, Glare the uncomfortable brightness of a light source when viewed against a darker background, and Light Intrusion ("Trespass"), the spilling of light beyond the boundary of the property or area being lit, are all forms of obtrusive light which may cause nuisance to others and waste money and energy. Therefore recommend an appropriate condition in order to control light levels resulting from the development.

- 5.81 Construction: There are concerns about how local residents will be affected during the large amount of construction that will be necessary for the proposed houses. It is therefore recommended that a Construction Environmental Management Plan be required.
- 5.82 **Environmental Health: (Air Quality)** With mitigation measures recommends approval.
- 5.83 Air Quality at the site is very good and complies with all national and international standards for the protection of human health. The development will not introduce new residents to an area of known pollution.
- 5.84 If the proposal is built it will generate additional vehicle movements. This has the potential to impact on local air quality to the north and to the south of the site. Daily the development is predicted to generate 122 extra vehicles to the north (72%) and 48 to the south (28%).
- 5.85 As the Rottingdean Air Quality Management Area is to the south of the proposed development, the air quality assessment focuses on any impacts to this sensitive area.
- 5.86 The majority of traffic generated as a result of this development will travel away from the AQMA. The area to the north nearer to the top of local hills and ridges has better entrainment of fresh Atlantic air, lower levels of pollution and is not equally sensitive to emissions from road traffic.
- 5.87 To offset the impacts of emissions harmful to health (oxides of nitrogen and fine particulate matter) a series of mitigation measures are recommended as conditions. These could be achieved via the building design, off site infrastructure measures, the travel plan or the Construction Environment Management Plan (CEMP).
- 5.88 **Flood Risk Management Officer:** Recommends approval as has no objections to the application subject to the inclusion of a condition regarding surface water drainage.
- 5.89 **Heritage: Recommend Approval** The loss of this green and open space, which has historically always been historic open downland, is regrettable but it is noted that the Urban Fringe Assessment (UFA) identified this as site for 45 houses and the proposed density is very similar to that suggested in the UFA. The impact of the proposed development on the designated heritage assets in the wider area is however very limited. There is limited intervisibility between Rottingdean Windmill and the site and any impact on this arising from the development would be so limited as to have no effect on the significance of the Windmill. The site does not form part of the setting of Ovingdean Conservation Area and its listed buildings or the Rottingdean Conservation Area and its listed buildings, nor of New Barn.
- 5.90 The submitted Heritage Statement concludes that the locally listed former farm buildings to the north of the site (wrongly called Woodingcote House) are of

limited significance and that this significance would not be changed by the development. However, the interest of the farm buildings partly lies in their still rural setting; this helps to enable their original use to be more easily read and understood. The proposed development will further isolate the buildings from the surrounding downland and, as such, it would result in a medium magnitude of change and a minor adverse effect on their setting and therefore their significance. This harm is at the low end of 'less than substantial' and should be weighed against any public benefits of the proposed development and taking into account the identification of the site in the UFA.

- 5.91 **Housing Strategy: Comment** The city-wide Housing Strategy adopted by Council in March 2015, has a Priority 1: Improving Housing Supply, with a commitment to prioritise support for new housing development that delivers a housing mix the City needs with a particular emphasis on family homes for Affordable Rent. The Council has an Affordable Housing Brief (AHB) based on evidenced housing needs in the City.
- 5.92 The application is for 45 properties including 40% affordable. This equates to 18 properties and these are offered at the Council specified tenure mix of 55% affordable rent (10 units) and 45% shared ownership (8 units). This is compliant with policy CP20 of Brighton & Hove City Plan Part One and meets the Affordable Housing Brief.
- 5.93 Up to date assessment of housing needs shows that although greatest need (numerically) is for smaller one and two bed properties there is significant pressure on larger family sized homes, and the AHB scheme mix is based on this.
- 5.94 The Scheme meets the AHB requirements with regards to the number of units and tenure mix which is fully supported. The unit mix reflects the site overall and provides additional larger units and the sizes meet standards or smaller family units and are therefore supported.
- 5.95 **Planning Policy Comments 5/12/216** The principle for some residential development on part of this urban fringe site has been established through the 2014 and 2015 Urban Fringe Assessment studies and the 2015 appeal decision relating to a previous application (**BH2014/02589**).
- 5.96 The current proposal will make a valuable contribution to the city's housing requirements and will assist with the five year housing land supply. It will also provide 40% affordable housing (18 units in total) with 10 units for affordable rent and 8 units shared ownership and this is to be welcomed.
- 5.97 Subject to the comments from the County Landscape Architect and County Ecologist and subject to appropriate open space retention and mitigation together with an agreed open space contribution, policy comments are able to support this proposal. There are considerable benefits associated with the proposed housing provision in terms of helping to meet the city's housing requirements and affordable housing requirements.

- 5.98 **Public Art Officer Comments** To make sure the requirements of local planning policy are met at implementation stage, it is recommended that an 'Artistic Component' schedule, to the value of £44,000, be included in the section 106 agreement.
- 5.99 30/03/2017 following receipt of amendments Comment To make sure the requirements of local planning policy are met at implementation stage, it is recommended that an 'Artistic Component' schedule, to the value of £45,000, be included in the section 106 agreement.
- 5.100 **Sustainable Transport Officer Comments 22/12/2016** The Highway Authority would recommend that the applicant resubmit the proposed highway works plan to address concerns with the removal of the pedestrian refuge island on Ovingdean Road, together with a Stage 1 Road Safety Audit. Subject to this, the Highway Authority would recommend approval with necessary conditions/S106 and a S278 highway works agreement.
- 5.101 Comment 13/04/2017 following receipt of amendments The comments have been updated to reflect revised plans which include amendments to plots to the east of the site, proposed walking and cycling route from Falmer Road and internal estate roads. The comments remain largely unchanged from those provided in respect of the original plans and in principle have no objections subject to necessary conditions/S106 and a S278 highways works agreement. However it is noted that the plot layout adjacent to Street 5 has altered since the previous submission. This would limit the opportunities for securing the recommended footways on both sides of the carriageway to a required standard by conditions. It is therefore recommended that this be clarified and amended plans submitted as necessary prior to determination.
- 5.102 In the event that planning consent is granted, the Highway Authority would seek a package of highway works as previously agreed and in lieu of sustainable transport contribution. This will provide sustainable transport infrastructure in the vicinity of the site to improve bus stop facilities and access for future residents together with the provision of a right turn pocket on Falmer Road at the junction with Ovingdean Road.
- 5.103 It is deemed that the above, together with requested Travel Plan measures, will provide suitable mitigation for the transport impacts of the development proposals. In reaching this recommendation, the Highway Authority has assessed the number of trips that it is forecast will be generated by the proposed development, together with those arising from committed developments that may also generate additional traffic on Falmer Road.
- 5.104 It should also be noted that the proposals represent a reduction of 40 units on the previous scheme for the site (BH2014/02589). Although this was refused and dismissed at appeal, the reasons for refusal did not relate specifically to the transport impacts of the scheme and the Highway Authority raised no objection. The Inspector did however consider the transport impacts of the proposals in light of the representations made in this respect. It was subsequently concluded "that the proposed development would not be harmful to local traffic conditions

and would accord with the expectations of the [National Planning Policy Framework (NPPF)]". Given the reduced scale of the proposals and upon assessment of up to date traffic data, the Highway Authority is therefore of the view that the current application would not be contrary to Section 32 of the NPPF (Transport) and policy CP9 of the Brighton & Hove City Plan Part One.

- 5.105 Comment 20/04/2017 following receipt of amendments The reason the footpaths were requested on both sides was to accommodate all pedestrian desire lines and also to ensure adequate pedestrian provision to the properties on the south side of Street 5. It is therefore welcomed that the applicant has been able to amend the revised plans to incorporate these. The additional footways are of a sufficient width, though further details such as materials, provision of crossing points (dropped kerbs and tactile paving) as well as the integration of the original and extended paths adjacent to plots 23-25 would need to be agreed. However, as stated in the original comments, these matters can all be addressed through the recommended estate roads condition.
- 5.106 **Sustainability Officer:** Comments 10/11/2016 Adopted Brighton & Hove City Plan Part One policy CP8 requires that all development incorporate sustainable design features to avoid expansion of the City's ecological footprint, radical reductions in greenhouse gas emissions and mitigate against and adapt to climate change.
- 5.107 CP8 sets out residential energy and water efficiency standards required to be met by the Planning Authority.
- 5.108 Very limited information has been submitted to demonstrate how sustainability policy is being addressed. In the previous application an online Sustainability Checklist was submitted, energy modelling had been undertaken, and there were commitments to achieving minimum performance standards.
- 5.109 In this application no Sustainability Checklist was submitted, and there is no indication that minimum energy and water efficiency performance standards will be targeted or met.
- 5.110 The application has not addressed policy CP8 Sustainable Buildings. Therefore with current content of this application, approval is not recommended.
- 5.111 Comments 19/04/2017 following receipt of amendments Whilst amendments to the landscaping plan offer an improvement in relation to integrating food growing on the site, the application has not addressed many policy issues from CP8. Planning conditions are suggested that could make the development acceptable. If these conditions are applied then have no objection.

## **6. MATERIAL CONSIDERATIONS**

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan,

and all other material planning considerations identified in the "Considerations and Assessment" section of the report

6.2 The development plan is:

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

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

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design
- CP13 Public streets and spaces
- CP14 Housing density
- CP15 Heritage
- CP16 Open space
- CP17 Sports provision
- CP18 Healthy city
- CP19 Housing mix
- CP20 Affordable housing
- SA4 Urban Fringe
- SA5 The Setting of the National Park
- SA6 Sustainable Neighbourhoods

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

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- TR15 Cycle network
- TR18 Parking for people with a mobility related disability
- SU3 Surface Water Drainage
- SU5 Surface water and foul sewage disposal infrastructure
- SU9 Pollution and nuisance control



SU10 Noise Nuisance  
SU11 Polluted land and buildings  
QD5 Design - street frontages  
QD15 Landscape design  
QD16 Trees and hedgerows  
QD18 Species protection  
QD25 External lighting  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development  
HO13 Accessible housing and lifetime homes  
NC4 Sites of Nature Conservation Importance  
HE6 Development within or affecting the setting of Conservation Areas  
HE10 Buildings of local interest  
HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

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

Supplementary Planning Guidance:

SPGBH9 A guide for Residential Developers on the provision of recreational space

Other Documents:

- Brighton & Hove Urban Fringe Assessment - June 2014
- Further Assessment of Urban Fringe Sites 2015 - Landscape and Ecological Assessment - December 2015
- Open Space Study Update 2011
- South Downs Integrated Landscape Character Assessment - December 2005 (Updated 2011)
- Developer Contributions Technical Guidance - June 2016

## **8. CONSIDERATIONS & ASSESSMENT**

### **8.1 Background**

8.2 A previous application (**BH2014/02589**) sought outline consent, with appearance reserved for approval at a later date, for 85 dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space and strategic landscaping.

8.3 This application was refused by the Local Planning Authority in January 2015 on the grounds that omissions in the application resulted in the Local Planning Authority being unable to assess likely impacts of the proposal on ecology and air quality and the proposal, by virtue of its scale and site coverage, resulted in adverse impacts upon the character and appearance of the site and surrounding area and therefore represented overdevelopment, contrary to

policies of the Brighton and Hove Local Plan, and the Submission City Plan Part One.

- 8.4 The previous refusal was the subject of an appeal hearing in January 2016 in which the Inspector considered the proposal with regards to issues including character and appearance, ecology, air quality and traffic. Key elements of the appeal decision, which is a material planning consideration in the determination of this application, will be discussed throughout this report. It should be noted that it was on the ground of overdevelopment that the appeal was dismissed:
- 8.5 "The excessive extent of the built form would appear as a discordant intrusion into the immediate balanced relationship of open land to built form, and would thereby be seriously harmful to the character and appearance of the appeal site and its surroundings. The scheme, by reason of its extent, would not represent a sympathetic response to the site's otherwise predominantly open, countryside character and its relationship to Ovingdean at a significant approach to the settlement from the B2123" (paragraph 100 of the appeal decision).
- 8.6 The main differences between the refused scheme and that now proposed are;
- Reduction in quantum of development from 85 to 45 dwellings,
  - Reduction in net development from 2.43 hectares to 1.68 hectares,
  - An increase in open space from 1.29 hectares to 2.04 hectares,
  - Reduction in net density from 35dph (gross density 23dph) to 28dph (gross density 12dph), and
  - Re-positioning of proposed new access road from Ovingdean Road further to the west.
- 8.7 The main considerations in the determination of this application relate to the principle of the proposed development, the impacts of the scale of the proposed development on the visual amenities of the surrounding area, including the setting of the South Downs National Park and the suitability of the proposed layout. The proposed access arrangements and related traffic implications, air quality, impacts upon amenity of neighbouring properties, future occupiers' amenity, ecology, and sustainability impacts must also be assessed.
- 8.8 **Principle of Development**  
The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. The Inspector emphasised that this minimum requirement would meet only 44% of the objectively assessed need for new housing and that this was "a very significant shortfall which has important implications for the social dimension of sustainable development". It was also recognised in the Inspector's report that there was a "considerable need" for affordable housing in the City. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.9 The potential for some residential development on part of the application site was identified through the 2014 and 2015 Urban Fringe Assessment studies

(undertaken to support City Plan Part 1, the preparation of City Plan Part 2). The principle for some development was subsequently accepted through the 2016 appeal decision.

- 8.10 The Local Planning Authority recognises that the proposed scheme, for the provision of 45 new dwelling units, has particular social and economic benefits including contributing to meeting the City's significant housing requirements and 5 year supply, providing 40% affordable housing units (18 units comprising a mix of unit sizes and tenure), create jobs, particularly during the construction phase, and go some way to making up the significant shortfall in the need for new housing referred to by the City Plan Inspector.
- 8.11 Urban Fringe  
The site is classed as an urban fringe site located between the defined built up area boundary of the City and the boundary of the SDNP, which is located on the eastern side of Falmer Road. The site is located within the urban fringe where the SDNP narrows to a thin tract of land that separates Ovingdean and Woodingdean villages.
- 8.12 Under the adopted Brighton & Hove City Plan Part One the site is subject to the urban fringe policy SA4, which states that development within the urban fringe will not be permitted except where a site has been allocated within a Development Plan or where a countryside location can be justified and where certain specified criteria are met, including regard to the downland landscape setting of the City and any adverse impacts of development are minimised and appropriately mitigated and/or compensated for.
- 8.13 Policy SA4 also states that where proposals for residential development come forward prior to the adoption of City Plan Part Two (which is to include site allocations) then the 2014 Urban Fringe Assessment will be a material planning consideration in the determination of planning applications.
- 8.14 The Urban Fringe Assessments 2014 and 2015  
The Urban Fringe Assessment 2014 (UFA) is an independent, high level assessment that was commissioned by the Council in response to the Planning Inspector's initial conclusions on the City Plan Part One in order to inform the overall housing delivery requirement for the City being taken forward through the preparation of Brighton & Hove City Plan Part One.
- 8.15 The UFAs provided an indication of the overall potential for housing within each of the City's identified urban fringe sites, 66 in total, against 5 key criteria (landscape, open space, historic environment, ecology and environment) and considers the scope for mitigation of any adverse impacts identified. As a result of the UFA 2014 policy CP1 identifies the potential for around 1000 new dwellings within the City's urban fringe.
- 8.16 The UFAs are a material consideration in the determination of planning applications for development proposals within the urban fringe and therefore the in-principle acceptability of some residential development on part of the site has been established through the findings of the UFAs. It is however noted that the

findings of the UFAs are indicative and should be applied flexibly on a site by site basis and, where appropriate, and justifiable, an increased level of development may be accepted.

- 8.17 As stated within the 2014 assessment "Accommodating housing in the urban fringe will contribute towards the objectively assessed need for housing in the city. It will also benefit the wider local economy and present opportunities for investment and regeneration in the more outlying communities of the city, both around the main urban area, and at the edges of the 'satellite' settlements to the east". The assessment goes on to state that, "This investment has the potential to result in wider economic, environmental and social (e.g. health and wellbeing) benefits to the city and not just individual communities".
- 8.18 The 2015 Further Assessment of the Urban Fringe Sites was undertaken to provide more detailed assessments (with regards to landscape and/or ecology) of the sites identified as having housing potential, to inform potential site allocations to be taken forward through City Plan Part Two, which is now in preparation.
- 8.19 Both UFAs refer to the site (known as site 42/L16/E13 in the assessments) and identify that the western part of the application site has the potential for housing development for approximately 45 units, on approximately 1.75 Ha of the site, provided that appropriate mitigation can be secured to address the potential for adverse landscape and ecology impacts. Both studies identify clear sensitivities in terms of the potential for adverse landscape and ecology impacts that would need to be satisfactorily addressed.
- 8.20 With respect of the site, the conclusions of the 2015 LUC Landscape and Ecology further assessment states:

"In conclusion, it is considered that although it would be challenging to avoid significant landscape and ecological impacts at the potential development area within Study Area L16/E13, housing could be delivered with reduced impacts assuming careful design and that robust mitigation measures are developed and implemented. This may include:

- Carefully located screening planting is provided, which does not itself impact on the openness of views from Falmer Road, in particular towards Mount Pleasant, or on the ecological value of any notable grassland habitats.
- Detailed ecological surveys are undertaken including to confirm grassland habitat types present and their value.
- Measures will need to be implemented to minimise loss of higher value areas of grassland habitat, including areas identified as calcareous grassland by the above surveys, whilst ensuring sufficient areas remain in the wider Study Area which can be enhanced as compensation for areas lost.
- This would also need to include implementation of measures to ensure retention of notable species, such as red star thistle and hornet robberfly, within the remainder of the Study Area.

- Incorporation of robust mitigation measures to address any impacts on protected species,
- Incorporation of opportunities for wildlife and green infrastructure with the development itself."(page 146, 2015 Further Assessment of Urban Fringe Sites, LUC).

8.21 Landscape and ecology are discussed in more detail below.

8.22 **Design/Visual Amenities**

City Plan policy CP12 seeks to raise development densities where appropriate and sets out 9 design principles for all new development.

8.23 Layout

Following amendments to the proposal an open space buffer would be provided between the eastern most sited dwellings and the boundary with Falmer Road. This area of approximately 2.04Ha would comprise retained/reconfigured horse paddocks (northern part) and an informal open space area (southern part), divided by a new pedestrian footpath linking the southern part of the proposed development with Falmer Road.

8.24 The proposed developed part of the site would cover approximately 1.68Ha and would be arranged in detached, semi-detached and terraced forms. Single storey garages would be located between some of the proposed detached/semi-detached properties with further uncovered parking bays in front. A smaller informal open space area would be located in the north-western corner of the site, accessed from Ovingdean Road.

8.25 The proposed affordable housing units would be located towards the western boundary of the site.

8.26 The main vehicular access point into/out of the site would be from Ovingdean Road (opposite Gable End) which would comprise of a main spine road, with secondary and tertiary access roads off of this. An additional access point to Plot 1 would be located to the west of the main access point.

8.27 Although the appearance of the proposed dwellings is reserved at this stage a plan has been submitted which shows that the orientation of the key frontages (i.e. access pint to the proposed dwellings) of the proposed development would vary across the site.

8.28 Design of Proposed Dwellings

As set out above the appearance of the dwellings is reserved for subsequent approval. However it is stated within the indicative information submitted that the majority of the development would be two storeys in height, with a maximum height of all the buildings being 10.2m above ground level. It is considered that the height of development should be restricted by condition to 2 storeys in order to ensure that the development is in character with the surrounding residential area.

- 8.29 Indicative designs of the proposed dwellings/streetscenes has been provided as part of this outline application which implies that the proposed dwellings would comprise hipped and gable end roof forms and would be built of an array of materials.
- 8.30 Landscape/Visual Amenity Impacts  
As set out above the application site is located close to boundaries of the South Downs National Park, which is a landscape of national importance. Policy SA5 of the CPP1 relates to the setting of the National Park and seeks to protect and enhance the natural beauty of the National Park by requiring developments within its setting to have regard to the impact on the National Park, in particular its purpose and its ability to deliver its duty.
- 8.31 The South Downs Integrated Landscape Assessment identifies the site as being bounded by the Adur to Ouse Open Downland Character area A2. This is characteristically open downland with sparse hedges and post and visually transparent wire field boundaries. Whilst the site is outside the SDNP it does have similar characteristics as described. The description also identifies that the landscape is sensitive to changes beyond the South Downs boundary, for example within the adjacent urban areas.
- 8.32 The National Parks and Access to the Countryside Act 1949 imposes certain duties on local planning authorities, when determining planning applications in relation to, or affecting, National Parks. Specifically, s11A (2) of that Act, as inserted by s.62 of the Environment Act 1995, states:  
  
"In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park".
- 8.33 The purposes of National Parks, as set out in s5(1) of the 1949 Act, are:  
  
"(a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of [National Parks]; and  
(b) of promoting opportunities for the understanding and enjoyment of the special qualities of [National Parks] by the public".
- 8.34 As the proposed development is not sited within the National Park it is not considered that s5(1)(b) above applies in this instance.
- 8.35 As a result of the 1949 Act, in determining this application, regard therefore must be given to the statutory purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the SDNP. The proposed development's enhanced landscaping scheme, ecological enhancement measures and the assessment with regards to archaeology are referred to later in the report.

- 8.36 Since submission of the current application the proposal has been amended to omit a proposed Local Area of Play and community growing area as such features were considered to have an adverse harm on the visual/landscape amenities of the site and surrounding area and the site's ecology. As discussed in more detail below the omission of these previously proposed features in addition to the other amendments to the layout of the site discussed within this report have resulted in an increase in retained open space to the east of the proposed dwellings and a retention of a higher proportion of Red-Star Thistle.
- 8.37 The previously refused application (BH2014/02589) related to 85 houses, with a built form of which would have extended further to the east within the site than that now proposed. It is noted that within the appeal decision relating to this earlier refused application the Inspector did not place the site in the category of being a valued local landscape in the sense intended by the NPPF and stated:
- 8.38 "The site is set at a low level relative to the surrounding higher levels of the SDNP and, whilst there would be inter-visibility between parts of the SDNP and the development, the scheme would be more widely viewed in the context of the existing settlements of Ovingdean and Woodingdean, and would reflect a similar relationship to the SDNP as existing elsewhere".
- 8.39 Furthermore, whilst overall the Inspector concluded that "with particular regard to the scale of development proposed and the extent of site coverage, the development would be harmful to the character and appearance of the appeal site and its surroundings through over-development and associated loss of local open landscape character" the Inspector did not find the scheme would be significantly harmful to the wider National Park itself. The Inspector did however state;
- "...notwithstanding the limited inherent landscape quality of the appeal site, its existing open form and character are significant features in contributing to the distinctiveness of the setting'.
- 8.40 It is acknowledged that, in order to retain the proposed quantum of development of 45 dwellings whilst reducing the eastern extent of development in the centre of the site (to increase the amount Red-Star Thistle retained on the site), the revisions to the layout of the development, received in March, have resulted in the residential development within the southern part of the site extending further to the east. However the southern part of the site is the lowest sited part and least visible and as such the County Landscape Architect has not objected to this revision.
- 8.41 Within the submitted Design and Access Statement Addendum the proposed development is shown in relationship to the UFAs development area. Whilst the appeal Inspector stated that he considered that the eastern development boundary identified within the UFAs to be "relatively arbitrary" it was also stated that the UFAs eastern boundary "does serve to define a reasonable balance of land-use between built form and open land by sympathetically reflecting the surrounding sweep of open land to which the appeal site both contributes and draws similar character".

- 8.42 The majority of the proposed development would remain within the area of development indicated by the UFAs and an open space buffer, larger than that in the refused scheme, would be provided along the eastern side of the site. As such it is considered that the proposal has addressed the previous concerns with regards to extent of development beyond that identified within the UFAs.
- 8.43 There are views into the site from the local area and in particular from Ovingdean Road and Falmer Road. Wider views from the Downs tend to be obscured by landform and the location of the site in the bottom of the valley. The most significant views from the downs are from the bridleway on Mount Pleasant.
- 8.44 As part of the application Landscape and Visual Impact Assessments have been submitted which have been assessed by the County Landscape Architect and are considered to provide an accurate assessment of the baseline landscape of the site and surroundings. The information submitted indicates that the proposed development would have at worst a moderate visual effect from the most sensitive viewpoint on Mount Pleasant, once the proposed mitigation planting has matured. The photomontage provided to illustrate this indicates that the proposed houses would be closely related to existing development on Ovingdean Road. From this viewpoint the proposed houses would be set against a backdrop of buildings on the Longhill School campus.
- 8.45 The revised layout retains an open undeveloped area of grassland in the eastern part of the site and as such the proposed layout addresses previous concerns raised regarding the impact on views from surrounding downland and in particular Mount Pleasant, including those of the County Landscape Architect.
- 8.46 Overall given the conclusions of the earlier appeal and the fact that the current scheme is for 40 dwellings fewer than the refused scheme and as such would comprise a greater open space gap between the development built form and the boundary with the SDNP than the refused scheme, it is not considered that the current proposal would have a significantly harmful impact upon visual amenities and the local landscape, including the setting of the National Park and as such the proposal accords with relevant policies.
- 8.47 Cumulative Impacts of Development of Site 42  
The site assessed in the UFAs also includes a plot of land to the west of the application site, which is in separate ownership and therefore the cumulative impacts of development of both parcels of site 42 must be considered and given some weight, as it is possible that they may both be developed and would be seen alongside one another.
- 8.48 Application **BH2015/01890** sought permission for the construction of 6 three bedroom dwellings with detached garages and 2 detached single storey outbuildings. Although this application was refused on grounds of insufficient ecological information, lack of affordable housing contribution and sustainable transport infrastructure contribution it is acknowledged that a development on



this adjacent urban fringe site could allowed in the future (either via a subsequent appeal or application).

8.49 Should the development of 6 dwellings on this adjacent site and 45 dwellings set out within this current application be permitted it is noted that the proposed combined quantum of the two separate sites (totally 51 dwellings) would exceed that suggested in the UFA. However with regard to landscape/visual impact, the adjacent site (western section of site 42) proposal would 'sit behind' the proposed larger development in views from the east and the north. As such it is considered that the adjacent site proposal, viewed alongside the larger development of 45 houses, would not significantly worsen landscape / visual impacts especially as the current application would retain an open space gap between the built developments of site 42 and the boundary with the South Downs National Park, which is located to the east of site 42. Therefore, in considering the potential cumulative impacts of both developments should they be allowed, the landscape / visual impacts are considered acceptable.

8.50 Heritage

The site does not form part of the setting of either the Rottingdean or Ovingdean Conservation Areas nor does the site form the setting of Listed Buildings located within the area, including New Barn, which is located outside of the two Conservation Areas. However the Council's Heritage Officer states that having developed from farming origins, the views towards and from the surrounding open downland are important to the character and appearance of the nearby heritage assets and as such the site, which forms a 'green buffer', is an important part of their setting.

8.51 The Council's Heritage Officer considers that the loss of the existing green and open space, which has historically always been open downland, is regrettable. However the Heritage Officer also notes that the UFAs identified this site as having the potential for residential development, at a density similar to that proposed.

8.52 The impacts of the proposed development on the designated heritage assets in the wider area is considered to be very limited and it is also considered that there would be limited inter-visibility between Beacon Windmill, which is a listed structure located to the south of the site near the coast road, and the site.

8.53 Whilst the proposal would result in the further isolation, from the surrounding downland, of the locally listed heritage assets of Woodingdean Farm and its associated buildings, the harm on their setting and therefore their significance is identified as being at the low end of 'less than substantial'. As such the identified harm should be weighed by the benefits of the development as a whole, namely a contribution towards the City's housing needs and the findings of the UFAs.

8.54 If approved the impacts of the design of the proposed dwellings, on the setting of the neighbouring non-designated heritage assets would be fully assessed at reserved matters stage.

**8.55 Accommodation Provision/Standard of Accommodation**

The 2014 UFA study indicates potential for low density (25dph) residential development on the lower western part of the site (1.75ha). The current application proposes an average net density across the site which is considered compatible with this (28dph) and recognises the need for the development density to be varied across the developable part of the site, with the density decreasing from west to east as the development becomes closer to the South Downs National Park boundary (which is located to the east of Falmer Road)

8.56 The proposal would comprise the following 45 residential units (2 flats and 43 houses);

- 1 bedroom x 2 (both affordable)
- 2 bedroom house x 8 (8 affordable)
- 3 bedroom house x 16 (8 affordable)
- 4 bedroom house x 10, and
- 5 bedroom house x 9

8.57 The proposal accords with policy CP20 in that 40% (18 units) of the proposed units would provide affordable housing, and such provision is offered with a tenure mix of 55% for social/affordable rent (10 units) and 45% intermediate housing (8 units).

8.58 The proposed affordable housing offer would be largely split between 2 and 3 bedroom units (8 units/44% of each). Whilst it is acknowledged that policy CP20 seeks a citywide affordable housing mix of 30% 1 bedroom, 45% two bedroom and 25% 3 bedroom it is acknowledged that the surrounding residential areas adjacent to the site are characterised by generally family sized housing and the site is suitable for a range of family sized dwellings. Taking this into account it is considered that the proposed affordable housing mix is acceptable in this case.

8.59 To ensure the creation of mixed and integrated communities, the affordable housing should not be visually distinguishable from any of the market housing on the site in terms of build quality, materials, details, levels of amenity space and privacy. If overall the proposal was considered acceptable this could be ensured at reserved matters stage.

8.60 In terms of the 27 market housing units proposed, unit sizes are split between 3, 4 and 5 bedroom, which is considered acceptable for this location.

8.61 The appearance of the proposed dwellings has been reserved at this stage and as such no floor plans of the proposed dwellings have been submitted. It is therefore not possible to assess the standard of accommodation proposed with respect to provision of window openings, outlook, achievable levels of light/sunlight, overlooking and loss of privacy between the proposed units.

8.62 Whilst the Local Planning Authority does not have adopted space standards, for comparative purposes, reference is made to the Government's Technical Housing Standards - National Described Space Standards (March 2015) document. From the accommodation schedule on the submitted layout plan

provided it is shown that the size of the proposed units would range from approximately 52.9sqm (1 bedroom) to approximately 228.5sqm (5 bedroom). From the information provided at this stage it would appear that only the proposed 3 bedroom affordable housing unit size would not accord with the national space standards if for 5 or 6 person occupancy but would comply for up to 4 person occupancy.

- 8.63 In order to accord with policy HO13, a minimum of 10% of the proposed affordable housing residential units and 5% of the overall housing units are required to be fully wheelchair accessible. For this proposal of 45 units, with 40% affordable housing provision, both of the proposed wheelchair adaptable units would need to be within the affordable housing provision. Such provision can be ensured via a condition if overall the proposal was considered acceptable.
- 8.64 Policy HO13 also requires all other residential dwellings in a development, that are not wheelchair accessible, to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) standards, which can be ensured via the attachment of a condition.
- 8.65 **Amenity and Open Space and Recreation Provision**  
Policy HO5 requires new residential development to provide adequate private and usable amenity space for occupiers, appropriate to the scale and character of the development. From the plans submitted it is apparent that each unit of accommodation proposed would be provided with some form of private external amenity area, space which is considered to be appropriate to the scale and character of the development proposed. Details of proposed boundary treatments between the proposed amenity spaces can be secured via a condition.
- 8.66 Policy CP16 seeks the retention of all existing open space (public and private). It is acknowledged that the proposal would result in 1.68Ha of existing open space being lost. However, part e) of policy CP16 states that the 2014 Urban Fringe Assessment will be a material consideration in the determination of applications of residential development in the urban fringe prior to the adoption of Part 2 of the City Plan.
- 8.67 Whilst the amendments to the proposal, since its submission, have resulted in the loss of the previously proposed Local Area of Play because of concerns regarding adverse harm on the visual amenities of the site and surrounding area, the proposal would provide two areas of informal open space and would result in the retention of part of the existing horse paddocks, open spaces which would provide a buffer between the built development and the eastern boundary of the site.
- 8.68 It is also acknowledged that the recent layout revisions have resulted in the increase of developed area (1.61Ha to 1.68Ha) when compared to the layout submitted originally and therefore a further loss of open space (2.11Ha to

2.04Ha) however it is also acknowledged that such increase has occurred due to the alteration to the positioning of built form along the southern boundary of the site to compensate for a reduction in development in the centre of the site, which is considered acceptable for reasons discussed above in the Landscape/Visual Amenity Impacts section of this report.

- 8.69 Given that the proposed development would result in a net loss of open space, albeit currently private, it is considered most important to secure appropriate mitigation for the loss. In view of the ecological and landscape merits of the site it is considered that these issues should be the main focus for mitigation 'enhancements' together with ensuring appropriate public access to open space.
- 8.70 The 2014 Urban Fringe Assessment notes that development could make provision for publically accessible open space but key to this is the need to secure a funded maintenance plan to ensure the open space is managed in perpetuity.
- 8.71 The required retained open space and the associated enhancement is to mitigate for the open space lost to development. As such, a separate requirement under policy CP16 and CP17 is to seek a financial contribution which relates to the demand for open space generated by the development itself, rather than mitigating against the loss of open space, in this case a contribution of £191,432 towards off-site improvements is required. As such the amount of open space to be retained with enhancement and public access mitigates for the space lost and should not be taken into account to reduce the open space contribution sought to meet the generated demand from the proposed development.
- 8.72 Mitigation, enhancement, management and maintenance of the retained horse paddocks and informal open spaces can be secured via conditions/S106 Agreement.
- 8.73 **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.
- 8.74 It is noted that objections refer to loss of views and the loss of value of properties within the area as a result of the proposed development however such objections are not material planning considerations in the determination of the application.
- 8.75 Daylight/Sunlight/Overshadowing  
As set out previously, the appearance of the proposed dwellings is not being assessed within this outline application. However within the information submitted it is stated that the proposed two storey dwellings would measure a maximum of 10.2m from related ground level to ridge level. It is considered that

the height of proposed development should be restricted to 2 storeys in order to ensure that the development is in character with the surrounding residential area and does not have a significant adverse impact upon the surrounding landscape, including the setting of the SDNP.

- 8.76 The site generally falls across the site from east to west, from between approximately 60m (AOD) adjacent to the Falmer Road (B2123) to approximately 45m (AOD) along the western edge of the site, adjacent to The Vale. Indicative streetscene plans have been submitted that show that the gradient of the land would not be altered significantly as part of the proposal and that the height of the proposed dwellings across the site would reflect the east to west gradient.
- 8.77 Due to the proposed urban form of the development, gaps would be located between the proposed dwellings. Despite the presence of the gradient across the site, which would result in the dwellings on the eastern side of the site being located at a higher level than those on the western side, given the proposed layout of the dwellings, the maximum ridge height/roof profile indicated and the distance to the neighbouring properties on The Vale and Ovingdean Road, it is not considered that the proposal would have a significant adverse impact upon the amenities of neighbouring properties regards to loss of light/sunlight or overshadowing.
- 8.78 Outlook & Privacy  
The proposed northern most sited dwellings would be located a distance of approximately 2.5m from the northern boundary of the site, which fronts Ovingdean Road. A minimum distance of approximately 5.6m is located between the southernmost facing elevation of existing residential properties located on the northern side of Ovingdean Road and their associated front boundaries.
- 8.79 Despite it not currently being known where windows would be located in the proposed new dwellings, due to the distance of approximately 23m between the northern elevation of the proposed northern most sited dwellings on the site and the southern elevation of the nearest neighbouring properties located on Ovingdean Road, it is not considered that the proposal would have a significant adverse impact upon the amenities of these neighbouring properties, with regards to overlooking or loss of privacy.
- 8.80 The proposed western most sited dwellings would be located a minimum of approximately 13m from the western boundary of the site. A wooded area of approximately 25m wide is currently located to the west of the site, between the western boundary of the site and The Vale. Due to the distance of the nearest western sited houses from the western boundary and the presence of the wooded area to the west of the site it is not considered that the proposal would have significant adverse impact upon the amenities of the existing eastern neighbouring properties, located along The Vale, with regards to overlooking or loss of privacy.
- 8.81 Potential Development in the Western Part of Site 42

As a development of the western part of site 42, assessed under a separate planning application (ref. **BH2015/01890**) could be allowed either through an appeal of the recent refusal or a subsequent application, the cumulative impact of both developments must be considered and given some weight as it is possible that they may both come forward and would be seen alongside one another. The layout proposed, with the rear boundaries of rear gardens adjoining the western boundary of the application site, is considered compatible with a future development of the adjacent site. Suitable spacing between the proposed dwellings of the two separate development sites would be provided (based on the layout refused in application **BH2015/01890**) and detailed landscaping boundary of the site could be secured via a condition, which would provide screening between the two sites.

**8.82 Sustainable Transport:**

Within the relevant appeal decision the Inspector stated that "Given the scale of the scheme, and the detailed evidence and overall conclusions of the transport assessment, I find the likely impact would not be severe, and that the scheme would accord with this key test of the Framework" and as such concluded that the proposed development, of 85 dwellings, would not be harmful to local traffic conditions. The number of proposed dwellings has been reduced to 45 in the current application.

8.83 Policies require development proposals to provide for the demand for travel which they create and maximise the use of public transport, walking and cycling.

**8.84 Site Access Roads and Footways**

The proposal includes a main spine road with secondary access roads off this. The applicant has stated that the intention is for the Highway Authority to adopt "all of the principle estate roads". The Highway Authority however considers it to be in the public interest that only the main spine road be adopted and not sections providing private access to properties. The applicant should therefore make appropriate arrangements for the ongoing management and maintenance of private access roads and footways within the site including the path connecting the site with Falmer Road.

8.85 The Highway Authority would not intend to adopt land beyond the carriageway/footway and as such areas adjacent to buildings and gardens would need to be demarcated between adopted public highway and un-adopted land.

8.86 Two pedestrian access points into the site, namely alongside the main vehicular access off Ovingdean Road and a route leading to Falmer Road to the south east of the site. The latter is welcomed as it improves the pedestrian permeability of the development. This route would be 3m wide to provide for both pedestrians and cyclists accessing the site and includes low-level lighting, which is also welcomed.

- 8.87 Amendments have been submitted to provide footways on both sides of the proposed carriageways within the site as requested by the Highway Authority. Full details can be agreed through a S38 agreement.
- 8.88 The revised plans include footways with a width of generally 2m, reducing to 1.5m alongside parking which is considered acceptable. Previous concerns regarding parking bays obstructing footways/pedestrian desire lines has also been largely addressed.
- 8.89 In order to maintain pedestrian permeability into and through the site, the Highway Authority would also look for the applicant to enter into a walkways agreement under S35 of the Highways Act (via a S106 agreement). This is necessary to agree means of access and management of the pedestrian/cycle routes which do not form the principle estate road which is intended to be adopted.
- 8.90 The main vehicular access point into/form the site would be from Ovingdean Road opposite Gable End, with a raised entry. In addition direct access to Plot 1 is proposed from Ovingdean Road, which will require the provision of a vehicle crossover.
- 8.91 Since assessment of the 2014 application it is noted that a 20mph speed restriction has been introduced on Ovingdean Road, in 2015. Visibility splays in excess of the 25m minimum recommended in Manual for Streets for such speeds would be achieved for the main site access. The revised site access means that the existing street tree is sited within the wider visibility splay at approximately 27m. The loss of this street tree was previously objected to by the Council's Arboriculturist and the proposal was revised to retain this tree.
- 8.92 The retained street tree would be located in close proximity to the proposed access to Plot 1 however, it is noted that the proposed crossover is further from the tree than that serving the existing field. The revised plans show a turning area for Plot 1 as requested in the Highway Authority's previous comments. This will allow vehicles to enter and exit the site in forward gear.
- 8.93 The works to provide the vehicle accesses and reinstate the redundant access associated with the existing field would be covered by a Section 278 agreement with the Highway Authority which should be secured via condition.
- 8.94 The proposed access road would be approximately 4.8m wide for the most part. This is consistent with Manual for Streets minimum recommendations for a car and HGV to pass. Given the nature of vehicles expected to access the site on a day-to-day basis this is considered appropriate and the revised Transport Statement has submitted revised swept paths to show that a refuse vehicle is able to enter and turn on the site.
- 8.95 Should overall the proposal be considered acceptable the residential estate roads within the site which are to be adopted would be subject to a S38 agreement whilst details of those which are not to be adopted would also be addressed through associated condition.

8.96 Public Transport

The nearest bus stops to the site are located opposite the site on Ovingdean Road and are served by the number 52 bus (Brighton Station to Woodingdean via several main destinations, every 90 minutes). These bus stops do not benefit from any measures that the Highway Authority would look for to provide an accessible and high quality bus service (Real Time Passenger Information, accessible bus kerbs, bus shelter).

8.97 The next nearest bus stops are located on Falmer Road. The northbound bus stop benefits from having an accessible kerb but no other necessary infrastructure to ensure a high quality bus service is provided.

8.98 Improvements are needed to public transport services and infrastructure in order for the development to benefit from a quality public transport service that provides a real choice for residents. This would also ensure that the development is in accordance with the National Planning Policy Framework (NPPF) and Brighton & Hove City Plan Part One Policy CP9.

8.99 It is recommended that these works be secured as part of the S278 agreement.

8.100 Car Parking

SPD14 states that the maximum car parking standard for residential units in outer areas of the city is 1 space per dwelling plus 1 car space per 2 dwellings for visitors, equivalent to 68 spaces for this development of 45 units. The submitted Transport Statement states that 68 spaces are proposed; however, the revised submitted plans indicate that the number of spaces proposed is in fact 78 (1.7 per unit). Including garages, further spaces would be provided whilst additional vehicles could be accommodated on some private driveways. Given the latter would not generally be independently accessible, the Highway Authority has not included these in its calculations.

8.101 Without on-street parking controls (double yellow lines/Controlled Parking Zones) it can be difficult to manage residential car ownership. Therefore, future residents will still be likely to own a car even if they do not have a car parking space and will simply park their vehicle on-street. The Highway Authority would therefore not wish to object to the level of car parking proposed as part of this scheme. A further reduction in parking spaces could lead to overspill car parking and increased on-street parking which could in turn be detrimental to pedestrian and cycle movements and impact upon the street scene.

8.102 At the level proposed, and noting average car ownership of 1.2 cars per household (2011 Census) for the Rottingdean Coastal Ward, it is considered that overspill parking within the site will be minimal with limited likelihood of overspill beyond the site on to Ovingdean Road.

8.103 Disabled Parking

Although it is not clear from the plans submitted which of the proposed dwellings would be accessible for wheelchair users, as set out 10% of the proposed affordable housing residential units and 5% of the overall housing



units are required to be fully wheelchair accessible. It is noted that each of the proposed dwellings appears to have at least one dedicated parking space which would therefore provide for the needs of mobility impaired residents.

8.104 Electric Vehicle Parking

SPD14 requires a minimum of 10% of car parking spaces to be equipped with electric vehicle charging points and a further 10% to have passive provision to allow conversion at a later date. As well being required by SPD14 for all new residential developments above ten residential units, ensuring that facilities for electric vehicles are provided will in the long-term facilitate a shift to lower emission vehicles and assist in mitigating any potential impact on local air quality from increased trips. No details of such provision is provided within the submission however further details can be required via a condition.

8.105 Cycle Parking

Based on the housing mix proposed SPD14 requires a minimum cycle parking provision of 105 spaces.

8.106 The submitted Transport Statement indicates that cycle parking will be provided to SPD14 standards; however, few details on the design have been provided. The nature of the residential units is such that there would be ample scope to provide policy compliant cycle parking within each plot. In order to be consistent with Brighton & Hove Local Plan policy TR14, cycle parking should be secure, convenient to access and, wherever possible, sheltered.

8.107 Deliveries and Servicing

As noted above, the proposed estate roads are wide enough to accommodate goods vehicles whilst the Transport Statement includes swept paths for a refuse vehicle which indicates that this can adequately service the site and turn in order to exit in forward gear.

8.108 Trip Generation and Highway Impact

The applicant has updated the trip generation exercise previously submitted in 2014 (regarding BH2014/02589), keeping the trip rates per unit the same. This means the current forecasts are proportionately less than the previous proposals for 100 and 85 units. The Highway Authority raises no objection to the trip rate parameters applied in this respect. Across the day, there are expected to be approximately 228 vehicle movements and 389 person trips.

8.109 The applicant's Transport Consultant has assigned these additional trips to the network using the same method as was agreed previously, namely using 2001 Journey to Work Census data. Given that more up to date data are now available this exercise would ideally have been reviewed. The Highway Authority has however completed a sensitivity analysis using 2011 Census data and as a result the assumptions appear to remain reasonable and variation in terms of the number of trips would be minimal.

8.110 Current Planning Practice Guidance (DCLG, 2014) leaves the level of assessment to be determined by local Highway Authorities on assessment of relevant criteria. In this case, the Highway Authority would consider that the

Transport Statement submitted by the applicant which includes analysis to the north (Woodingdean) and south (Rottingdean) as well as junction capacity assessments for the two junctions in closest proximity to the site (site access/ Ovingdean Road and Falmer Road/ Ovingdean Road) to provide an appropriate level of assessment in principle.

- 8.111 The applicant has re-submitted base traffic counts provided as part of the 2014 application. Although not confirmed in the current submission, reference to the original application reveals that this is indeed the same data collected in March and May of that year. Ideally the applicant would have undertaken new traffic counts, though they have instead growthed this to 2016 and 2021 (opening year) using the DfT's TEMPRO package.
- 8.112 The Highway Authority has compared this to its own traffic count data which does not suggest that background traffic has increased substantially more than the levels forecast using TEMPRO. Indeed, there have been some reductions within the data indicating that a degree of peak spreading has occurred. The Highway Authority has however considered the potentially higher growth associated with committed developments.
- 8.113 The applicant has undertaken modelling of the proposed site access and the junction of Ovingdean and Falmer Road, the latter with and without highway works proposed as part of the current application. The assessment indicates that both junctions would operate within capacity.
- 8.114 No junction modelling has been undertaken for junctions further from the site in Woodingdean or Rottingdean. Instead, the development trips have been justified by the applicant on the basis they are less than the previous scheme and represent a lower impact on Falmer Road in percentage terms.
- 8.115 In relation to the first argument that the impact will be less than application reference **BH2014/02589**, it should be acknowledged that at the subsequent Appeal the Inspector found the application to be compliant with the NPPF from a transport perspective and therefore not warranting refusal on these grounds. This position could only be reviewed if circumstances had worsened since the previous application was assessed in 2015. The background traffic data outlined above would suggest that this is not the case during peak periods. An updated assessment of cumulative developments has been undertaken.
- 8.116 The second justification given concerning percentage impact, whilst common practice, could be considered to be simplistic in that the higher the background flows the lower the development impact. This would not necessarily be the case if the background traffic was at or near to capacity. The Highway Authority has therefore considered the impact forecast in 2014 (and accepted) to that forecast now, taking account of background traffic growth and committed development.
- 8.117 In relation to committed developments, taking account of Planning Practice Guidance on Transport Assessments (DCLG 2014) the Highway Authority is unable to consider sites in the east of the city that may have been subject to planning applications but do not have consent or are not allocated within the

- 8.118 City Plan Part 1. The Highway Authority is however of the view that there is a need to assess the impact of committed developments requested as part of the original application (Brighton Marina Outer Harbour (BH2012/04048) and Woodingdean Business Park (BH2012/03050)) as well as the Royal Sussex County Hospital (RSCH). In the 2021 scenario incorporating growthed traffic and development flows, the applicant does not appear to have made any additional allowance for committed developments.
- 8.119 This is considered reasonable for Woodingdean Business Park as the majority of the development has been implemented and reflected in current traffic data. The principle of cumulative development from the Brighton Marina was also included in the previous assessment and the Inspector's subsequent conclusion that the transport impact was not deemed to be severe.
- 8.120 The RSCH construction traffic is acknowledged in the submitted Transport Statement; however, estimated vehicle movements were not available to the applicant at the time of writing. The Highway Authority would however consider that any impact from RSCH construction trips on Falmer Road will be low at the time of the forecast development trip generation peaks for the Ovingdean Road site.
- 8.121 Additionally, the sites listed in Lewes District have been highlighted by Environmental Health officers as requiring consideration in respect of the cumulative impact on the Rottingdean Air Quality Management Area (AQMA). It is noted that the Air Quality Statement applies a standard assumption of 9% traffic growth based on 2013 traffic data provided in BHCC's Air Quality Management Plan (2015) projected to 2019. Full calculations do not appear to have been provided however and, as this is based on average day figures rather than peak periods and covers different forecast periods, consistent comparison with the Transport Statement is not possible.
- 8.122 Changes in base traffic conditions since the previous application have been assessed as well as the additional consented development not included on an individual basis previously. The assessment focuses on the main junctions of concern for the Highway Authority; namely, the Woodingdean and Rottingdean crossroads. It should be noted that the assessment does not take into account the forecast background growth included in 2014, therefore presenting a worse case comparisons to the previous scheme forecast. This indicates that accounting for background growth and committed developments the level of increase in Woodingdean would be limited compared to that which the Inspector previously concluded would not warrant refusal on transport grounds under the NPPF.
- 8.123 Rottingdean High Street does suggest a greater level of growth; however, the increase expected from the development (4 trips in the AM peak) is minimal. The Highway Authority would not consider that this would amount to a severe impact and therefore warrant refusal on transport grounds. As discussed above, the route assignment assumptions applied by the applicant remain reasonable.

- 8.124 In summary and taking into account the above assessment, the proposed level of development and mitigation measures (improvements to walking and public transport facilities, provision of a Travel Plan and associated measures), the residual cumulative impacts of this development are not considered to be severe, as set out by the NPPF.
- 8.125 Highway Works/Mitigation  
The proposals no longer include a right turn lane on the exit from Ovingdean Road. The Highway Authority would agree that this is not required given the revised scale of the application and peak vehicle movements from the site. This will remove the need to widen the junction mouth which would have disadvantaged pedestrians and also encourage speeds not in keeping with the entry to a 20mph speed limit area, which as noted above was implemented in 2015 following the Highway Authority's comments on the previous application. It has been confirmed that the applicant intends to retain the existing pedestrian refuge on Ovingdean Road. However, the adjusted kerb line proposed would increase the crossing distance and potentially encourage higher speeds for vehicles turning into Ovingdean Road. It is requested that this be reviewed as part of the S278 process.
- 8.126 The previously proposed right turn pocket from Falmer Road is retained and, in terms of traffic flow, will represent an improvement on the existing situation in that southbound traffic on Falmer Road will not be obstructed by vehicles turning into Ovingdean Road.
- 8.127 As part of the submission a Stage 1 Road Safety Audit has been submitted. This raised two issues which the applicant's Transport Consultant has responded to. The works to address the issues raised by the Highway Authority would be provided in lieu of a sustainable transport S106 contribution and full details of these and associated bus stop upgrades would be agreed through a S278 Highway Works agreement.
- 8.128 Travel Plan  
The applicant has committed to producing one and agreed to the provision of a Residential Travel Pack. The Highway Authority previously requested a more comprehensive package of measures to include two six-month public transport vouchers and a cycle voucher per property as opposed to the seven-day bus ticket offered. The updated Transport Statement has subsequently confirmed acceptance of this request.
- 8.129 The additional measures are considered necessary to mitigate the impact of the development and ensure that it complies with policy CP9 of the Brighton & Hove City Plan Part One and Brighton & Hove Local Plan policy TR4. It is recommended that the Travel Plan and requested measures be secured as part of the S106 agreement.
- 8.130 **Arboriculture/Landscaping**  
The revised Arboricultural Report submitted is considered comprehensive by the Council's Arboriculturist and the contents are agreed with.

- 8.131 Some minor scrub and small trees will be lost but these are all of very little Arboricultural value and as such the Council's Arboriculturist does not object to this. Whilst the applicant's Arboricultural consultant has pointed out the presence of an important decay fungal and decay at the base of the existing street tree adjacent to the site, the Council's roadside tree officer is fully aware of the defects at the tree's base and continues to manage the tree with the defects in mind. The revisions received makes provision for the retention of the Roadside Elm located close to the entrance, the loss of which was previously objected to.
- 8.132 The site itself does not contain any trees protected by preservation order, however, there are two areas adjoining the site that contain trees covered by Tree Preservation Orders (TPO). All proposed development would be outside of the Root Protection Areas of all trees covered by TPOs and that where development is proposed close to tree rooting zones protective fencing has been proposed.
- 8.133 As set out above the proposal would comprise 2.04Ha of retained open space (paddocks and informal open space) to the east of the dwellings, a smaller informal open space area in the north-western corner of the site and private garden areas for each dwelling. The submitted plans also show the provision of street trees throughout the development and planting within the open space areas.
- 8.134 The County Landscape Architect has stated that the implementation and long term management of the tree and woodland planting proposed in the landscape masterplan will be key to mitigating the development. Extensive tree and shrub planting would conflict with the need to retain open grazed pasture to support the notable species on the site. It is recognised that where woodland planting would conflict with red star thistle individual specimen parkland trees have been used to help soften the edge of the development.
- 8.135 The Landscaping plan submitted with the application specifies a range of trees to be planted. It is noted that the County Landscape Architect and Council's Arboriculturist have some concerns as to the suitability of some of the species proposed.
- 8.136 Units 28, 29 and 30 located in the south-east corner of the site would be open to views and exposed. The Council's Arboriculturist also agrees with the County Landscape Architect's comments in that the street trees in this part of the development should be substituted by hybrid elms resistant to elm disease.
- 8.137 Since submission of the application the proposed community growing area has been removed for visual/landscape amenity reasons. It is however noted that the proposal includes the planting of edible varieties of plants etc across the site although it is considered by the Council's Sustainability Officer that a greater proportion of trees proposed could be local apple varieties.

- 8.138 Following receipt of comments by the County Landscape Architect, Sustainability Officer and the Council's Arboriculturist it is considered that further details of planting of the development can be obtained via a condition.
- 8.139 **Archaeology:**  
The site is situated within an Archaeological Notification Area, defining an area of prehistoric and Romano-British activity, including settlement. Policy HE12 states that development proposals must preserve and enhance sites known and potential archaeological interest and their setting.
- 8.140 The site has been subject to an archaeological geophysical survey, which indicates that the site does not contain remains of national importance, however the undertaken survey has identified a number of potential features of archaeological interest. As a result of the findings of the survey, mitigation of damage to below ground archaeological remains is required, the first phase of which would need to comprise evaluation excavation, prior to any building works or site preparation commencing.
- 8.141 The County Archaeologist recommends that, as a result of the potential loss of heritage assets on the site, the area affected by the proposal should be subject to a programme of archaeological works, an issue which can be dealt with via the attachment of a condition should overall the proposal be considered acceptable.
- 8.142 **Ecology/Biodiversity/Nature Conservation**  
The site is not covered by any designations, statutory or non-statutory, for nature conservation interest; however, within close proximity to the site is Ovingdean Road Horse Paddocks Site of Nature Conservation Importance (SNCI).
- 8.143 With regards to ecology, in the appeal decision of the previous application, the Inspector concluded that "subject to full and further details of proposed mitigation consistent with such measures as indicated by the Fringe Assessment, the proposed development would not be harmful to the ecological significance of the site".
- 8.144 In addition to the conclusions of the UFA 2015 set out above in the UFA section of this report in terms of ecology the UFA states that measures to retain notable species are likely to require the maintenance of grazing given the requirements of red star-thistle and hornet robberfly. The enhancement of habitats within the SNCI to the north of the site may also be required to increase robustness to any increase in recreational pressure, and potentially to compensate for habitat loss and impacts on species within the Study Area.
- 8.145 The Sussex Biodiversity Record Centre identifies the site as Lowland Calcareous Grassland, a Habitat of principal Importance under S41 of the Natural Environment and Rural Communities (NERC) Act and a priority habitat under the UK Biodiversity Action Plan (UK BAP).

- 8.146 The site supports a significant population of Red Star-Thistle which is a Species of Principal Importance under S41 of the NERC Act and which is classified as Nationally Rare, Critically Endangered.
- 8.147 The site also supports Cut-leaved Selfheal and Hybrid Selfheal, both of which are on the Sussex Rare Species Inventory and the Sussex Scarce Corky Fruited Water-dropwort. The site supports a number of rare and notable invertebrates including the Hornet Robberfly and the Cinnabar Moth, both of which are listed as Species of Principal Importance under section 41 of the NERC Act.
- 8.148 The site supports a low population of common lizard and a good population of slow worm. A low population of slow worm was recorded on land adjacent to the eastern boundary (in relation to planning application BH2015/01890).
- 8.149 Since the appeal, further surveys have been carried out on site, including updated National Vegetation Classification and invertebrate surveys. Whilst there is still some dispute over the exact nature of the grassland, it is undisputed that the grassland is species rich and shows good botanical and invertebrate diversity.
- 8.150 The Ecological Appraisal Addendum (March 2017) states that corky-fruited water-dropwort should be considered absent, based on the fact that it was not recorded during the Aspect Ecology surveys and that records were not returned from the Sussex Biodiversity Record Centre. The latter resulted from the fact that the species is no longer listed on the Sussex Rare Species Inventory as it is no longer listed as Nationally Scarce. Records for the species therefore need to be specifically requested. The species remains listed as being Sussex Scarce (occurring in less than four sites in either vice county) and was last recorded on site in 2014. It should therefore not be considered as absent from the site. However, the current proposed mitigation is considered to be adequate for this species.
- 8.151 The Addendum to the Ecological Appraisal (March 2017) has addressed previously submitted comments in relation to likely impacts on ecology as well as in combination and cumulative impacts with the proposed development for the adjacent site. Proposed mitigation has been adapted accordingly.
- 8.152 It is recognised that development has been restricted to the western side of the site to minimise impacts on landscape as discussed above. However, the layout has been adjusted also to allow the retention of as much red star-thistle in situ as possible, based on the latest distribution maps. This has increased the proportion of the population to be retained in situ from approximately 5% to approximately 31%. A significant proportion of the population that would be directly impacted by the development would be translocated to the eastern side of the site which will be managed through horse grazing, with additional translocation off-site (investigations are ongoing to find a suitable location site).
- 8.153 As a result the submitted Red Star-thistle Mitigation Strategy (March 2017) is considered to be broadly acceptable. Although some grassland habitats and

species have been successfully translocated elsewhere, the County Ecologist is not aware of any instances where the process has been tried with red star-thistle. As such, to increase robustness of the proposed mitigation, and in line with the 2015 UFA, it is also recommended that the strategy should include a revised management regime for the adjacent Local Wildlife Sites (Cowley Drive Paddocks and Ovingdean Road Horse Paddocks Sites of Nature Conservation Importance) to enhance their existing populations of the species. Seeds should also be collected and stored in an appropriate manner to provide a seed bank should remedial measures be needed.

- 8.154 The submitted Red Star-thistle Mitigation Strategy proposes submission of a report at the end of a five year monitoring period however it is recommended by the County Ecologist that annual reports are submitted to help assess the success or otherwise of the mitigation and to inform any remedial action that may be required. The reports should also be used to help develop best practice guidelines.
- 8.155 The County Ecologist considers that a detailed Red Star-thistle Mitigation Strategy, including off-site receptor sites and species management, can be secured by condition should overall the proposal be considered acceptable. Measures to protect retained species and habitat during construction should be provided in a biodiversity Construction Environmental Management Plan which can also be secured by condition.
- 8.156 Since submission of the application the proposal has been amended to comprise retained/reconfiguration paddocks to the east of the proposed residential development. The County Ecologist states that the continuation of horse grazing within part of the site is considered essential to maintain suitable conditions for both red star-thistle and hornet robber-fly on site. However, reduced grazing pressure is likely to improve the overall condition of the grassland which is known to be species rich. The development of a suitable conservation-based grazing regime is therefore recommended to restore the grassland to a Priority Habitat and to maintain suitable conditions for the notable plant and invertebrate species known to use the site. Ongoing management of the grassland on site should be provided in a Landscape and Ecology Management Plan, which could be secured by condition.
- 8.157 The proposed mitigation for bats, badgers, invertebrates and reptiles outlined in the submitted Ecological Appraisal Addendum is considered acceptable. Details of required mitigation as well as measures to enhance the site for biodiversity should be provided in an Ecological Design Strategy, which can be secured via a condition.
- 8.158 The proposed layout of the development has been adjusted to retain a wildlife corridor along the western boundary of the site. This corridor will allow dispersal of reptiles throughout the development and would retain a foraging and commuting corridor for bats and badgers. The County Ecologist notes that holes would be cut in fences between plots 7 and 12 and between 25 and 30 to aid dispersal, and that these holes would be masked with thorny species. It is



also recommended that plot boundaries are made permeable to badgers, either through the provision of holes in fences, or through the use of hedgerows.

- 8.159 Given the additional information provided in the recently submitted Ecological Appraisal Addendum, it is accepted that habitat manipulation plus protective fencing is likely to be sufficient for reptiles. A robust mitigation strategy for reptiles should be secured by condition.
- 8.160 Ongoing management of on-site habitats as well as off-site mitigation should be detailed in a Landscape and Ecology Management Plan which should be secured by condition.
- 8.161 In summary, provided that the recommended mitigation measures are implemented, the County Ecologists considers that the proposed development can be supported from an ecological perspective. Conditions should be secured for detailed mitigation strategies for red star-thistle and reptiles, for an ecological design strategy and for ongoing management of habitats on and off-site.
- 8.162 **Sustainability**  
City Plan Policy CP8 requires that all new development achieves minimum standards for energy and water performance as well as requiring that all development incorporate sustainable design features to avoid expansion of the city's ecological footprint, radical reductions in greenhouse gas emissions and mitigate against and adapt to climate change.
- 8.163 Whilst it is acknowledged that this application is outline only, with appearance reserved, it is considered that the greenfield site offers opportunities for excellent standards of sustainable design to be achieved and even at outline stage, a sustainable approach would indicate use of building orientation and design to deliver energy efficiency through passive means.
- 8.164 The previously proposed community growing area, whilst welcomed in sustainability terms, has been omitted from the proposal due to concerns regarding landscape/visual and ecology impacts however the submitted landscaping plans include edible varieties of plants, herbs, shrubs and trees throughout the site.
- 8.165 In relation to energy performance there is now reference to minimum energy and water efficiency standards required through City Plan Policy CP8 being addressed at the reserved matters stage, in the resubmitted Planning Statement.
- 8.166 In order to address futureproofing of the development in terms of sustainability it is requested by the Council's Sustainability Officer that further information, including an Energy Strategy, is submitted to demonstrate how measures including how the minimum energy performance standards would be met at pre-commencement and pre-occupation stages of the development, in order to comply with policy CP8.

8.167 Overall, whilst the revised landscaping plans offer an improvement in relation to integrating food growing on the site, the information submitted has not fully addressed many issues of policy CP8, however it is not considered that refusal on this ground would be justified as further information can be sought via condition.

8.168 **Other Considerations**

Flood:

The previous application was not objected to by the Council with regards to flooding, subject to mitigation. Within the recent appeal decision the Inspector did not conclude differently to the Council despite third party objections regarding flooding issues.

8.169 The site is located within the Environment Agency's Flood Zone 1 and therefore is considered to be at low risk of flooding. As part of the application a Flood Risk Assessment and Drainage Strategy has been submitted in which the micro drainage calculations for a proposed soakaway for a typical house has been described. These calculations estimate that a soakaway should be able to cope with a 1 in 100-year storm including climate change.

8.170 The Council's Flood Officer has no objections to the proposal subject to a condition being attached to an approval requiring the submission of a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods.

8.171 Land Contamination

Despite a previous desktop study concluding that the site is considered to have an overall low/very low potential from remnant contamination, given the size of the proposal, the new residential usage and the potential human receptors to contamination further geotechnical investigation is required. Further contaminated land investigation can be secured via a condition should overall the proposal be considered acceptable.

8.172 Lighting

Artificial lighting can cause obtrusive light and can present serious physiological/ecological/landscape/highway impacts and therefore should the proposal be considered acceptable it is recommended that a condition is attached to require light level details resulting from the proposed development, including the proposed pedestrian footpath to Falmer Road, to be provided and assessed.

8.173 Air Quality

Air Quality at the site is very good and complies with all national and international standards for the protection of human health. The development will not introduce new residents to an area of known pollution.

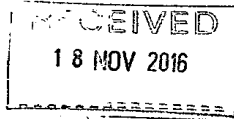
8.174 As set out above within the determination of the appeal of the previously refused development the Appeal Inspector concluded that subject to a range of mitigation measures the development of 85 dwellings at the site would not be harmful to air quality.

- 8.175 Despite the Inspector's conclusions, as part of the current application submission an air quality assessment has been submitted, which includes an air quality dispersion model, which has benefitted from pre-application discussions. Developments in Lewes District Council, to the east of the site, have also been taken into account in the cumulative assessment. The Council's Air Quality Officer has assessed this and the proposal and considers that the air quality at the site is very good and complies with all national and international standards for the protection of human health and the development would not introduce new residents to an area of known pollution.
- 8.176 There would not be a direct impact on future residents and occupiers of the site in terms of health and air quality. However the proposal would generate additional vehicle movements, which has the potential to impact on local air quality to the north and south of the site. It is considered that a majority of the traffic generated would travel away from the Air Quality Management Area located approximately 1km to the south of the site in Rottingdean High Street.
- 8.177 It is recommended that conditions are attached regarding appliance types used within the development and the securing of a travel plan and construction environmental management plan.
- 8.178 Construction Environmental Plan (CEMP)  
A condition should include the requirement for a CEMP in order to protect the amenities of local residents during the construction phase and to mitigate the construction phase highway impacts including measures to reduce deliveries and vehicle movements and ensuring that construction vehicles do not go through the Air Quality Management Area which is located within Rottingdean.
- 8.179 **Other Developer Contributions**  
Education  
A total contribution of £251,353 towards the cost of providing primary and secondary educational infrastructure in the City for school age pupils this development would generate has been requested by the Council's Education Officer.
- 8.180 Local Employment Scheme  
The Developer Contributions Technical Guidance provides the supporting information to request a contribution, of £20,500 through a S106 agreement, to the Local Employment Scheme in addition to the provision of 20 percent local employment for the demolition and construction phases.
- 8.181 Public Art  
City Plan Policy CP5 supports investment in public realm spaces suitable for outdoor events and cultural activities and the enhancement and retention of existing public art works, policy CP7 seeks development to contribute to necessary social, environmental and physical infrastructure including public art and public realm whilst policy CP13 seeks to improve the quality and legibility of the City's public realm by incorporating an appropriate and integral public art element. An 'artistic component schedule' could be included as part of a S106

agreement, to the value of £45,000 (based on the internal gross area of development), in order to ensure that the proposal complies with the stated policies.

**9. EQUALITIES**

- 9.1 The scheme would provide for 40% affordable housing. Conditions can be attached to ensure that all dwellings are built to Lifetime Homes standards and that 5% would be built to Wheelchair Accessible Standards.



**Councillor Mary Mears**

Brighton & Hove City Council  
c/o King's House  
Grand Avenue  
Hove BN3 2LS

Planning Applications.  
Brighton & Hove City Council.  
Hove Town Hall.  
Hove.  
BN3 3BQ.

16<sup>th</sup> November 2016

Re planning application BH2016/05530. Land South of Ovingdean Road Brighton.

As a ward Councillor for Rottingdean Coast I wish to object to the above planning application for the following reasons:

In my view this planning application is a serious over development, with the proposed density, which in my view is unsuitable for this field in a semi-rural area. The design of housing in the application is totally out of keeping with the character of the surrounding area. As the application is for "Outline Planning Consent with appearance reserved" the developers are not bound to stick to the visual images for the housing that they have submitted with this application.

The local infrastructure is already stretched, with doctor's surgery list at full capacity. Along with local primary schools..

There is a real lack of local infrastructure. Contrary to the statement in the application which states there are local shops and good transport!

.In reality there is only one local small village store in the centre of Ovingdean Village, over a mile away from the proposed development, which recently lost the post office facilities that were in store. You would need to be very fit to walk up a long steep hill to access the store. And be mindful of the volume of traffic already using Ovingdean Road.

The statistics from the City Councils own traffic survey in June 2016 showed 2,000 vehicles use Ovingdean Road at peak times on week days! This is before any extra vehicles, from the proposed development are taken into account.

The no 52 bus is the only public transport that runs through Ovingdean village, with a very limited service. The no 52 only runs every hour and 15 minutes, during the day time.

COUNCILLOR REPRESENTATION

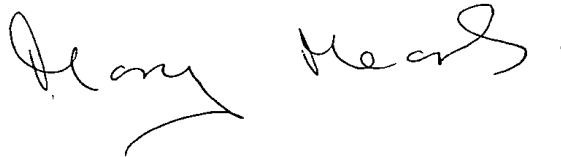
The no 2 bus is every 20 minutes in the day time half hourly in the evenings. Runs down the Falmer Road and does not go through Ovingdean.

From the previous application from the developer we know that along with many others, local and wildlife groups with their extensive local knowledge objected as this site represents a crucial wildlife corridor,

The site is a Nature improvement Area and is a stepping stone the South Downs National Park.

Such sites are disappearing at an alarming rate and affect us all.

As a ward Councillor I wish to reserve my right to speak on this application at the planning committee



Councillor Mary Mears.

Liz Arnold.  
Principal Planning Officer.  
Planning Control.  
Brighton & Hove City Council.  
Hove Town Hall.

Dear Liz Arnold.

Re Planning Application

BH2016/0553 Land South of Ovingdean Road. Brighton.

As a ward councillor for Rottingdean Coastal. I am writing further to my original objection to the above planning application.

Although the developers are now submitting some amendments to the scheme, there is a clear indication that the footprint of the site will be larger and the open space will be reduced with their covering letter.

My objection to this planning application has not changed, I believe this proposal is an over development of a site adjacent to the South Downs National park, with existing facilities already overstretched, local health services and schools. Plus the increase traffic congestion through Ovingdean, Falmer Road, Rottingdean High Street and the A259.

As this is a major planning application, I wish to reserve my right to speak at the planning committee.

Kind Regards.

Mary.

Councillor Mary Mears  
Conservative Member of Rottingdean Coastal Ward





# **ITEM B**

**22 Freshfield St, Brighton**

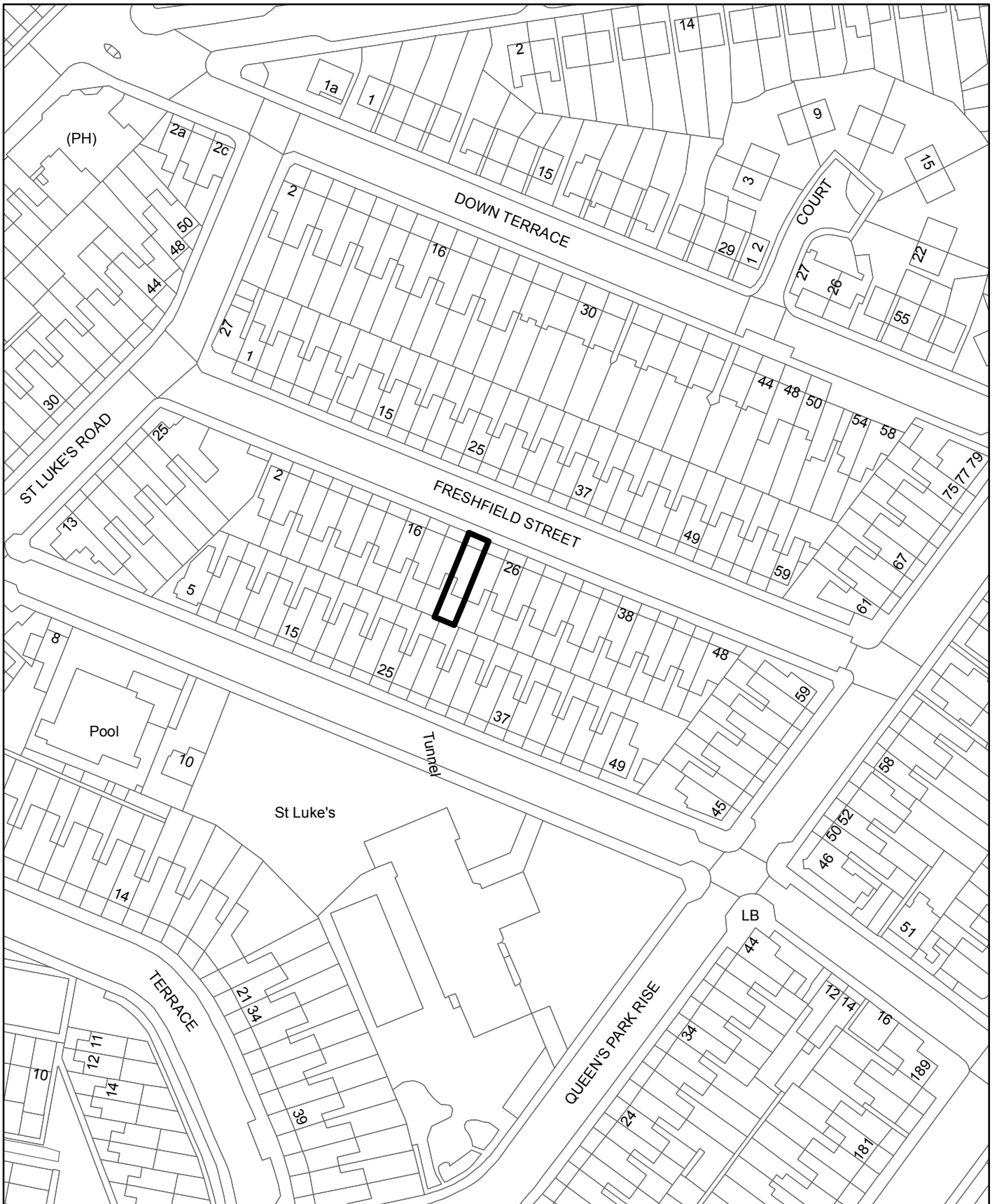
**BH2016/05803**

**Full Planning**

**DATE OF COMMITTEE 10<sup>th</sup> May 2017**



# BH2016/05803 22 Freshfield St Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |  |                            |                          |
|--------------------------------------|--|----------------------------|--------------------------|
| <b><u>No:</u></b>                    | <b>BH2016/05803</b>  | <b><u>Ward:</u></b>        | <b>Queen's Park Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>   |                            |                          |
| <b><u>Address:</u></b>               | <b>22 Freshfield Street Brighton BN2 9ZG</b>   |                            |                          |
| <b><u>Proposal:</u></b>              | <b>Change of use from four bedroom maisonette (C3) to six bedroom small house in multiple occupation (C4).</b> |                            |                          |
| <b><u>Officer:</u></b>               | Mark Thomas, tel: 292336   | <b><u>Valid Date:</u></b>  | 05.12.2016               |
| <b><u>Con Area:</u></b>              | N/A  | <b><u>Expiry Date:</u></b> | 30.01.2017               |
| <b><u>Listed Building Grade:</u></b> | N/A  | <b><u>EOT:</u></b>         |                          |
| <b><u>Agent:</u></b>                 | Dowsett Mayhew Planning Partnership Mr Anthony Foster 63A Ship Street Brighton BN1 1AE                         |                            |                          |
| <b><u>Applicant:</u></b>             | C Houston C/O Dowsett Mayhew Planning Partnership 63A Ship Street Brighton BN1 1AE                             |                            |                          |

Councillors Chapman and Barford have requested this application is determined by Planning Committee.

## 1. RECOMMENDATION

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

### Conditions:

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

| <b>Plan Type</b>                     | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|--------------------------------------|------------------|----------------|----------------------|
| Floor plans/elevations/sect proposed | P01              | F              | 26 April 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. Prior to first occupation of the development hereby permitted, the cycle storage area shown on the approved plans shall be made available for use and shall thereafter be retained for use at all times.  
**Reason:** To ensure satisfactory facilities for the storage of cycles and to comply with policy TR1 of the Brighton & Hove Local Plan.

Informatives:

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

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application relates to the upper maisonette within a two storey over basement mid-terrace house on the south side of Freshfield Street. The property has previously been enlarged with a rear dormer window, which provides additional accommodation in the roofspace. The property is subject to an Article Four Direction which restricts the change of use from C3 to C4 (small house in multiple occupation) in this location.
- 2.2 Planning permission is sought for the conversion of the four bedroom maisonette (C3) to a six bedroom small HMO (C4).

**3. RELEVANT HISTORY**

**BH2016/02005** Conversion of existing property (C3) to 1no one bedroom flat and 1no four bedroom maisonette (C3) including alterations to fenestration.  
Approved 31/05/2016

**4. REPRESENTATIONS**

- 4.1 Fifty-eight (58) letters have been received objecting to the proposed development for the following reasons:
  - There is no college or university nearby.
  - HMO use would attract students, social housing and the homeless, who
  - Wouldn't be interested in the local community.
  - Students/social housing/homeless tenants would increase noise and anti-social
  - Behaviours and would impact on house prices.
  - Increased noise, particularly at night.
  - Possible substance abuse.
  - Lack of care for the property.
  - Lack of parking.
  - Loss of privacy.
  - Possible anti-social behaviour.
  - Increased rubbish.
  - The proposed bedrooms would be extremely small.
- 4.2 **Councillors Chapman and Barford** object to the application. Comments attached.

## **5. CONSULTATIONS**

### **5.1 Sustainable Transport: No objection**

- The proposals may result in a small uplift in trips; however, it is not considered that this will have an adverse impact upon surrounding highway and transportation networks in this instance.
- No parking is proposed; however, it is not considered that likely levels of additional on-street parking demand resulting from the proposals could be deemed to amount to a severe impact on the highway in this location and as such refusal would not be warranted on highways and transportation grounds under the National Planning Policy Framework (NPPF).
- The applicant is proposing cycle parking for the HMO in a tri-metals store in the back garden of the property. This space is not ideal as there is stepped access and it is at the rear of the property which means residents would have to wheel their cycles through the dwelling to gain access. It is noted though that there is no available space elsewhere on the site therefore the store is acceptable in this location in this instance.
- The applicant details 2 cycle parking spaces. For a HMO of this size Parking Standards SPD14 requires 3 cycle parking spaces (1 per 2 bed spaces). There is adequate space to accommodate 3 cycle parking spaces therefore it is requested that further details are submitted and the condition below is recommended to be attached. In order to comply with Brighton & Hove Local Plan policy TR14, cycle parking should be secure, convenient to access and, wherever possible, sheltered whilst the Highway Authority's preference is for a secure store or the use of Sheffield stands laid out in accordance with Manual for Streets paragraph 8.2.22.

## **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
- CP9 Sustainable transport
- CP14 Housing density
- CP19 Housing mix
- CP21 Student housing and Housing in Multiple Occupation

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

- TR7 Safe Development
- TR14 Cycle access and parking
- SU10 Noise nuisance
- HO5 Provision of private amenity space in residential development
- HO8 Retaining housing
- QD27 Protection of amenity

Supplementary Planning Documents:

- SPD12 Design Guide for Extensions and Alterations
- SPD14 Parking Standards

**8. CONSIDERATIONS & ASSESSMENT**

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

**8.2 Principle of development:**

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

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

'In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in multiple occupation) use, a mixed C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:

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

8.4 A mapping exercise has taken place which indicates that there are 71 neighbouring residential properties within a 50m radius of the application property. One (1) of these neighbouring properties has been identified as being



in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is 1.41%, which is less than 10%. The proposal to change to a C4 HMO would be in accordance with policy CP21.

**8.5 Standard of accommodation:**

The layout provides kitchen/dining/living room and one bedroom to the ground floor, three bedrooms to the first floor and two within the roof space.

**8.6** Ground floor bedroom measures: 9.8m<sup>2</sup>.

First floor bedrooms measure: 12.9m<sup>2</sup>, 8.5m<sup>2</sup> and 7.5m<sup>2</sup>

Second floor bedrooms measures: 12.5m<sup>2</sup> (8.5m<sup>2</sup> over 1.5m head room-sectional drawing submitted) and 7.5m<sup>2</sup>

**8.7** All six bedrooms meet the minimum space standards for a single bedroom as established in the Nationally Described Space Standards provided by the Department for Communities and Local Government which states that a single bedroom should have a floor area measuring at least 7.5m<sup>2</sup>. The bedrooms are therefore all considered to be of adequate size with good circulation space and levels of natural light and outlook.

**8.8** The communal living space would be the ground floor kitchen/dining/living room (22m<sup>2</sup>). This is considered an adequate provision. The HMO would also have access to the rear garden which would provide some additional amenity space.

**8.9 Impact on Amenity:**

The occupancy would be restricted to 6 unrelated persons residing within the property. It is therefore not considered that any increased impact to adjoining occupiers in regards to noise and disturbance would be of a magnitude which would warrant the refusal of planning permission.

**8.10** The overall percentage of HMO's within a 50m radius is 1.41 percent which is within the 10% limit specified within policy CP21. As such, the cumulative impact of the proposed HMO on the area is not considered to cause harm to local amenity.

**8.11 Sustainable Transport:**

The proposed change of use would not result in a significant increase in on-street parking pressure or uplift in trip generation. Cycle parking would be within the rear garden, and is the same as approved under BH2016/02005. Implementation of secure covered cycle parking can be secured by condition.

**9. EQUALITIES**

**9.1** No issues identified.





PLANNING COMMITTEE LIST  
DATE OF COMMITTEE 12<sup>th</sup> April 2017  
COUNCILLOR REPRESENTATION

From: Daniel Chapman  
Sent: 23 December 2016 16:54  
To: Planning Applications  
Cc: Karen Barford  
Subject: Application number: BH2016/05803

Dear Planning Team,

Councillor Barford and I would like to request that the above planning application (22 Freshfield Street) is referred to the full planning committee, if it is not already. this is because we have received a number of concerns raised by residents in the area.

Many thanks

Daniel

Councillor Daniel Chapman, Queen's Park Ward  
Brighton and Hove City Council  
Deputy Chair - Children, Young People and Skills Committee



# **ITEM C**

**Land to the Rear Of 4 - 34 Kimberley Road,  
Brighton**

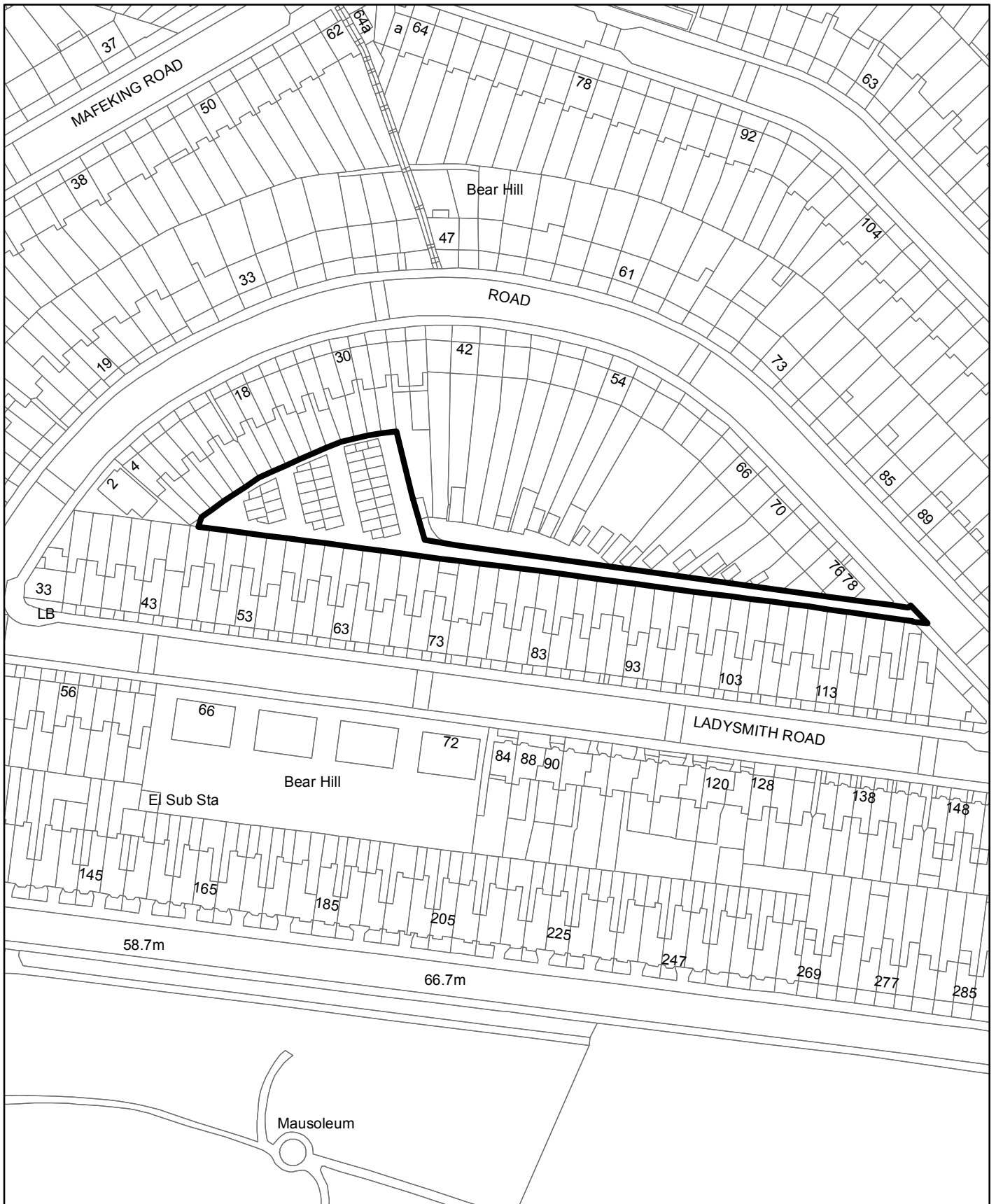
**BH2016/06310**

**Full Planning**

**DATE OF COMMITTEE 10<sup>th</sup> May 2017**



# BH2016/06310 Brighton Land to the Rear of 4 – 34 Kimberley Road



**Brighton & Hove  
City Council**



**Scale: 1:1,250**





|                                      |   |                            |                                    |
|--------------------------------------|---|----------------------------|------------------------------------|
| <b><u>No:</u></b>                    | <b>BH2016/06310</b>   | <b><u>Ward:</u></b>        | <b>Moulsecoomb &amp; Bevendean</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>  |                            |                                    |
| <b><u>Address:</u></b>               | <b>Land To Rear Of 4-34 Kimberley Road Brighton</b>   |                            |                                    |
| <b><u>Proposal:</u></b>              | <b>Erection of 4no two storey dwellings (C3) with off-street parking, associated landscaping works and re-surfacing of access road.</b> |                            |                                    |
| <b><u>Officer:</u></b>               | Joan Tooth, tel: 294251   | <b><u>Valid Date:</u></b>  | 07.12.2016                         |
| <b><u>Con Area:</u></b>              | N/A   | <b><u>Expiry Date:</u></b> | 01.02.2017                         |
|                                      |   | <b><u>EoT</u></b>          |                                    |
| <b><u>Listed Building Grade:</u></b> | N/A   |                            |                                    |
| <b><u>Agent:</u></b>                 | ZST Architects  | Miss Samantha Davies       | 3 Dorset Place Brighton BN2 1ST    |
| <b><u>Applicant:</u></b>             | Mr Reinhardt Slabbert   | Hazel Cottage              | Warren Road Brighton BN2 6DA       |

## 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 commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 2) The development hereby permitted shall be carried out in accordance with the approved drawings listed below.  
**Reason:** For the avoidance of doubt and in the interests of proper planning.

| <b>Plan Type</b>                             | <b>Reference</b> | <b>Date Received</b> |
|--|------------------|----------------------|
| Location Plan                                | 16025-P-100      | 7.12.2016            |
| Proposed Block Plan                          | 16025(P)100      | 1.12.2016            |
| Proposed Site Plan                           | 16025(P)111      | 1.12.2016            |
| Proposed Site Sections AA, BB, CC            | 16025(P)112      | 1.12.2016            |
| Proposed Site Sections DD & EE               | 16025(P)113      | 1.12.2016            |
| Plans and Elevations of Detached Houses      | 16025(P)120      | 1.12.2016            |
| Plans and Elevations of Semi-Detached Houses | 16025(P)121      | 1.12.2016            |

- 3) No extension, enlargement, alteration or provision within the curtilage of the of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking

and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

- 4) The first floor windows in the north and south elevations of Plots 1 and 2 of the development hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

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

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

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

- a) Samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) Samples of all cladding to be used, including details of their treatment to protect against weathering
- c) Samples of all hard surfacing materials
- d) Samples of the proposed window, door and balcony treatments
- e) Samples of all other materials to be used externally

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

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

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

- a) Details of all hard and soft surfacing;
- b) Details of all boundary treatments;

- c) Details of all proposed planting to all communal areas and/or all areas fronting a street or public area, including numbers and species of plant, and details of size and planting method of any trees.
- 8) 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.
- 9) The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One.
- 10) The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
- 11) The dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
- 12) None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a

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

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

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

**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD08 Sustainable Building Design.

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

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

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

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

- 16) Prior to occupation, the predicted illuminance levels shall be tested by a competent person to ensure that the illuminance levels agreed in Condition 15 are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in Condition 15.

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

- 17) The approved lighting installation shall be maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to a variation.

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

- 18) No development shall commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

- 19) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:

- a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice; and, unless otherwise agreed in writing by the Local Planning Authority,
- b) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2001; and, unless otherwise agreed in writing by the Local Planning Authority,
- c) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.

- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of (i) (c) above that any remediation scheme required and approved under the provisions of (i) (c) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:

- a) As built drawings of the implemented scheme;
- b) Photographs of the remediation works in progress; and

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

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

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

- 22) The new/extended crossovers and accesses shall be constructed prior to the first occupation of the development hereby permitted.

**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

- 24) Prior to first occupation of the development hereby permitted, pedestrian crossing improvements (dropped kerbs with paving and tactile paving and moving the location and increasing the number of speed cushions if appropriate) shall have been installed at the junction of and across Coombe Road (west) with Ladysmith Road.

**Reason:** To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7, TR11 and TR12 of the Brighton & Hove Local Plan & CP9 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 planning permission granted includes an obligation upon the applicant to carry out small scale footway improvements on the adopted (public) highway that is owned by the Highway Authority (in this case Brighton & Hove City Council). Previously the applicant would have been conditioned to enter into a bespoke legal agreement and pay a contribution towards these works being carried out for the benefit of the development but to amongst other reasons reduce the costs of these works for all parties concerned the council is now obligating the applicant to carry out these works. The applicant or their representative is advised to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 293366) who will provide information and if approved, a licence (instead of a bespoke legal agreement) for what can be done, when & where, who will be permitted to carry out the works, possible contractor contact details, design advice, material advice and will check that the footway improvements are built satisfactorily. The emphasis where possible is on minimising what needs to be done to build a satisfactory footway improvement for the benefit of the applicant, future occupants and visitors of the site and the community

as a whole, and in particular the mobility and visually impaired of those respective groups. Finally be advised that the applicant or their representative must obtain all necessary highway approval from the Highway Authority prior to any works commencing on the adopted (public) highway to satisfy the law and requirements of condition 24.

3. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
4. The water efficiency standard required under condition 13 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
5. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' for Zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).
6. The deposited plans do not appear to indicate satisfactory access for fire appliances for fire fighting purposes as will be required by Section B5 of the Approved Document to the Building Regulations and Section 35 of the East Sussex Act 1981 which states that there should be a vehicle access for a pump appliance to within 45m of all points within each dwelling. The plans do not show compliance with B1 standard of the Building Regulations. Fire hydrants' provisions should also be shown on the plans.
7. The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under

licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.

8. The applicant is advised that the above condition on land contamination has been imposed because the site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. To satisfy the condition a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of (i) (b) and (i) (c) of the condition. It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website ([www.defra.gov.uk](http://www.defra.gov.uk)) and the Environment Agency website ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)).
9. The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)).

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

- 2.1 The application relates to a wedged shaped area of land located behind the south terrace of Kimberley Road and north terrace of Ladysmith Road. The land previously comprised of 34 garages which are accessed from a long narrow strip of private land which runs between the two terraces and joins the public highway at the eastern side of Kimberley Road. The garages have subsequently been demolished.
- 2.2 The land slopes down west to east, and also south to north, with the highest point being adjacent to the entrance to the site. The site is secured by timber fencing approximately 1.8m high and an access gate.
- 2.3 Planning permission is sought for the erection of 4 no. two storey dwellings, associated parking, landscaping and resurfacing of access road. The development comprises a pair of semi-detached 3 bedroom dwellings to the west of the site and 2 detached 4 bedroom dwellings to the east of the site. The scheme is similar to that approved in 2014 under the last application, with changes to the design and footprints of the dwellings.
- 2.4 The pair of semi-detached properties would each measure 4.75m wide (a total width of 9.5m), 8.45m deep x 4.0m to eaves level (as the first floor is partially within the roofspace) and 6.6m to ridge height. Internally, each property would comprise a living room, kitchen and wet room to the ground floor and three bedrooms and a bathroom at first floor level.



- 2.5 Each detached property would measure approximately 6.1m wide x 10.6m deep x 4.4m to eaves level and 6.65m to ridge height with a fully pitched roof. Each property would comprise of a combined living room/kitchen/diner and cloakroom room to the ground floor and three bedrooms and a bathroom at first floor level.
- 2.6 The proposed layout provides for 1 no. allocated parking space per property open boundary front gardens, and a private rear garden for each unit.

### 3. RELEVANT HISTORY

- 3.1 **BH2016/05879** - Approval of Details Reserved by Conditions 7, 12, 14, 15, 16, 17 and 20 of application BH2013/04082. Under consideration.

**BH2013/04082** - Erection of 4no two storey dwellings (C3) with off-street parking associated landscaping works and re-surfacing of access road. Approved 16.5.2014.

**BH2008/03628** - Demolition of existing garages and construction of 4 two storey dwellings with off-street parking, associated landscaping works and re-surfacing of access road. Approved 12/11/2010.

**BH2007/01605** - Erection of five dwellings. Refused 14.02.08.

**BH2006/02386** - Outline application for the demolition of 34 garages plus additional stores and construction of 6 dwelling houses. Provision of 9 vehicle parking spaces and 6 bicycle parking spaces. Refused 21.11.06.

### 4. REPRESENTATIONS

- 4.1 **Neighbours: Nine (9)** letters of representation have been received objecting to the application for the following reasons:

- Design of houses with protruding frontage not in keeping with the character of the area
- Not enough space for vehicles or pedestrians.
- Not enough space for emergency services and refuse collection.
- Not enough car parking as likely to be two vehicles per property therefore parking will overspill onto neighbouring streets.
- No turning circle within site.
- The access road will need to be surfaced and adopted by the Council.
- Plot is too small
- Loss of light and privacy.
- Noise, dust and dirt nuisance if development goes ahead.
- Noise disturbance and pollution from cars within the site when properties are occupied.
- Too many houses on the plot.
- Should be conditioned that houses cannot be used for multiple occupation and sub-let out to students.

- Landscaping and environmental impact should be considered and the proposed payment to the Council as previously proposed adequately compensates for the loss of habitat.
- The views from existing properties will be compromised and have an effect on house prices.
- The design and access statement is incorrect regarding the access road width.
- Ownership of access road and its upkeep plus liability is questionable.
- The narrow access road should have pedestrian refuges.
- Ownership of the access is unresolved and shows land in other ownership.
- Lighting will increase light pollution.
- No details on how the building waste will be removed and building materials delivered.

## 5. CONSULTATIONS

- 5.1 **Environmental Health:** No objection subject to a land contamination condition.
- 5.2 **Sustainable Transport:** No objection subject to parking, cycle storage and highway improvement conditions.

## 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, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.3 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.

## 7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP8 Sustainable buildings
- CP9 Sustainable transport

CP10 Biodiversity  
CP12 Urban design  
CP13 Public streets and spaces  
CP14 Housing density  
CP18 Healthy city  
CP19 Housing mix

Brighton & Hove Local Plan:

TR7 Safe development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise nuisance  
SU11 Polluted land and buildings  
QD5 Design – street frontages  
QD15 Landscape design  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development

Supplementary Planning Documents:

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

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the principle of redevelopment of the site for 4 dwellings and the impact of the development upon the character and appearance of the area, the amenity of adjacent residential occupiers, traffic issues and sustainability considerations.

### **Planning History:**

- 8.2 Application BH2013/04082 for the construction of 4 two storey dwellings with off-street parking, associated landscaping works and re-surfacing of access road was approved by Committee on 14/5/2014.
- 8.3 An application for the discharge of details reserved by conditions 7, 12, 14, 15, 16, 17 and 20 of application BH2013/04082 is currently under consideration.

### **Principle:**

- 8.4 The application site is located within the built up area and was previously used for garaging for neighbouring properties. Therefore, the site is defined as a 'brownfield' site and as such, the principle of redevelopment is acceptable.
- 8.5 The City Plan Part 1 Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this

respect. The five year housing land supply position will be updated on an annual basis.

**Design and Character:**

- 8.6 The plans that have been submitted show different design and external appearance of the four properties to the previous applications. The buildings retain some features from the previous application that includes a mix of facing brick and render with casement windows that reflect the surrounding area, low eaves height with the upper floors partially contained within the roof space, with a contemporary design incorporating projecting bay windows.
- 8.7 These dwellings will integrate effectively in terms of their appearance and are not considered to cause any harm to the character and appearance of the wider area.

**Residential Amenity:**

- 8.8 Policy QD27 relates to protection of amenity and confirms that permission will not be granted where development 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 To the west of the site the semi-detached properties are situated at the lowest level of the land, and are approximately at the same base level as the surrounding properties. The upper floor rear windows would result in a degree of overlooking to neighbouring properties. With the southern one of the semi-detached houses there is a distance of around 10.6m to number 53 Ladysmith Road, albeit at a very oblique angle. With the northern property of the semi-detached pair there is a distance of approximately 11.8m to 14 Kimberley Road, again at an oblique angle. However, there is no direct back to back overlooking since it will mainly be to the end of the gardens only. This degree of mutual overlooking is to be expected and is reasonable within a residential area. In addition, the level of overlooking is the same as within the previously approved application, and a refusal of this revised scheme on grounds of loss of privacy this time would be considered to be unreasonable.
- 8.10 The issue of overlooking is slightly more complex to the east of the site (the two detached properties), as the levels of the site rise so these are at an elevated position compared to the semi-detached properties. That said the southern property, which has been re-orientated towards the southern boundary of the site, sits 0.9m lower than its neighbour and there are no windows in the side elevation which is 12.8m from the outrigger of 65 Ladysmith Road which is the nearest property. The northern detached property has been moved away from the properties on Kimberley Road and is situated 16m from the rear outrigger of number 30 in that road. Angled views towards the rear of the existing properties and the rear gardens are unlikely to cause significant overlooking. Therefore the resultant area which would have some limited overlooking would be towards the end of the rear gardens and would be acceptable.

- 8.11 With regard to loss of light, the scheme is not considered to cause a detrimental impact on the properties situated to the south of the development site due to the sun path going east to south to west.
- 8.12 The properties to the north may result in limited loss of light to the rear gardens, but due to the separation distances of the proposed development to the existing properties and the presence of the existing boundary fence, it is unlikely to cause any detrimental impact to the dwellings themselves. As such it is considered that there would be no adverse impact sufficient to warrant a refusal on these grounds.
- 8.13 The scheme would provide 4 dwellings capable of family occupation. The dwellings would have either two or three bedrooms and given the footprint are likely to provide an acceptable standard of living accommodation for the proposed occupiers.
- 8.14 Each would have a sufficient level of private amenity space. All the dwellings have access to a rear garden, although the front garden and boundaries are to be open. Furthermore some of the rear gardens are of an irregular shape with a diminishing wedge shape, despite this it is considered that the amount of amenity space would be adequate and could not warrant refusal on these grounds alone.
- 8.15 Overall, it is considered that the proposals impact on neighbouring amenity and the amenity of future occupiers is similar to the scheme approved under application BH2013/04082. Therefore, no objections are raised in regard to amenity.

**Traffic Considerations:**

- 8.16 The proposed access arrangements have not been altered since the approval of planning permission BH2013/04082; where upon it was considered that the potential number of vehicle movements which could occur from the existing garages would be significantly greater than those from 4 family dwellings. While the garages have been demolished, it is considered that an objection on transport impact is unlikely to be able to be sustained taking into account the previous approval.
- 8.17 According to the submitted block plan, the access track is approximately 120m long and between 2.7m and 3.5m wide. The site can only be accessed from the existing access and there is little opportunity to increase the width or provide further passing opportunities.
- 8.18 The comments from the Highway Authority are noted, in that there is no objection to the development subject to conditions in regard to car parking, cycle storage and highway improvement works, all of which are considered reasonable.
- 8.19 The comments from the East Sussex Fire and Rescue Service on the previous application state that the plans do not appear to indicate satisfactory access for fire appliances as required by Section B5 of the Approved Document to the

Building Regulations and Section 35 of the East Sussex Act 1981 which states that there should be a vehicle access for a pump appliance to within 45m of all points within each dwelling. The plans also do not show compliance with B1 standard of the Building Regulations. They would also recommend the installation of sprinkler systems.

- 8.20 The issue of access for emergency vehicles is dealt with under the Building Regulations, and thus it is not within the remit of the planning system to refuse an application on these grounds. If a development cannot provide adequate access for emergency vehicles, then this is controlled through the Building Control stage. In light of the previous approval, a refusal on such grounds would likely be considered unreasonable and incur a costs award against the Council.

**Environmental Health:**

- 8.21 Environmental Health have recommended that a contaminated land condition be attached to any approval given the application to develop the site.
- 8.22 To safeguard the amenities of neighbouring properties, lighting was controlled by conditions attached to the previous permission. It is considered appropriate for these to be imposed on this proposal.

**Sustainability:**

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

**Landscaping and Nature Conservation:**

- 8.24 Policies QD15, CP10 and the guidance set out in SPD11 require that development proposals include high quality landscaping and nature conservation enhancements.
- 8.25 A landscaping plan has not been submitted with the application. However, it is considered that this information can be secured by a suitably worded condition.

**9 CONCLUSION**

- 9.1 The proposed development would cause no undue loss of light or privacy to adjacent occupiers, would be of an appropriate design and materials to ensure that it would integrate effectively with the wider area. The units would achieve acceptable levels of living conditions for the future occupiers in relation to levels of natural light and ventilation and amenity space. Subject to conditions, the proposals would have an acceptable impact on sustainability objectives and cause no detrimental impact on highway safety. Therefore, the proposal is considered to be in accordance with development plan policies.

**10. EQUALITIES**

10.1 The development is required to comply with Part M of the Building Regulations and conditions are proposed which will ensure compliance with the national Optional Technical Standards.





# **ITEM D**

**16 St Lukes Terrace, Brighton**

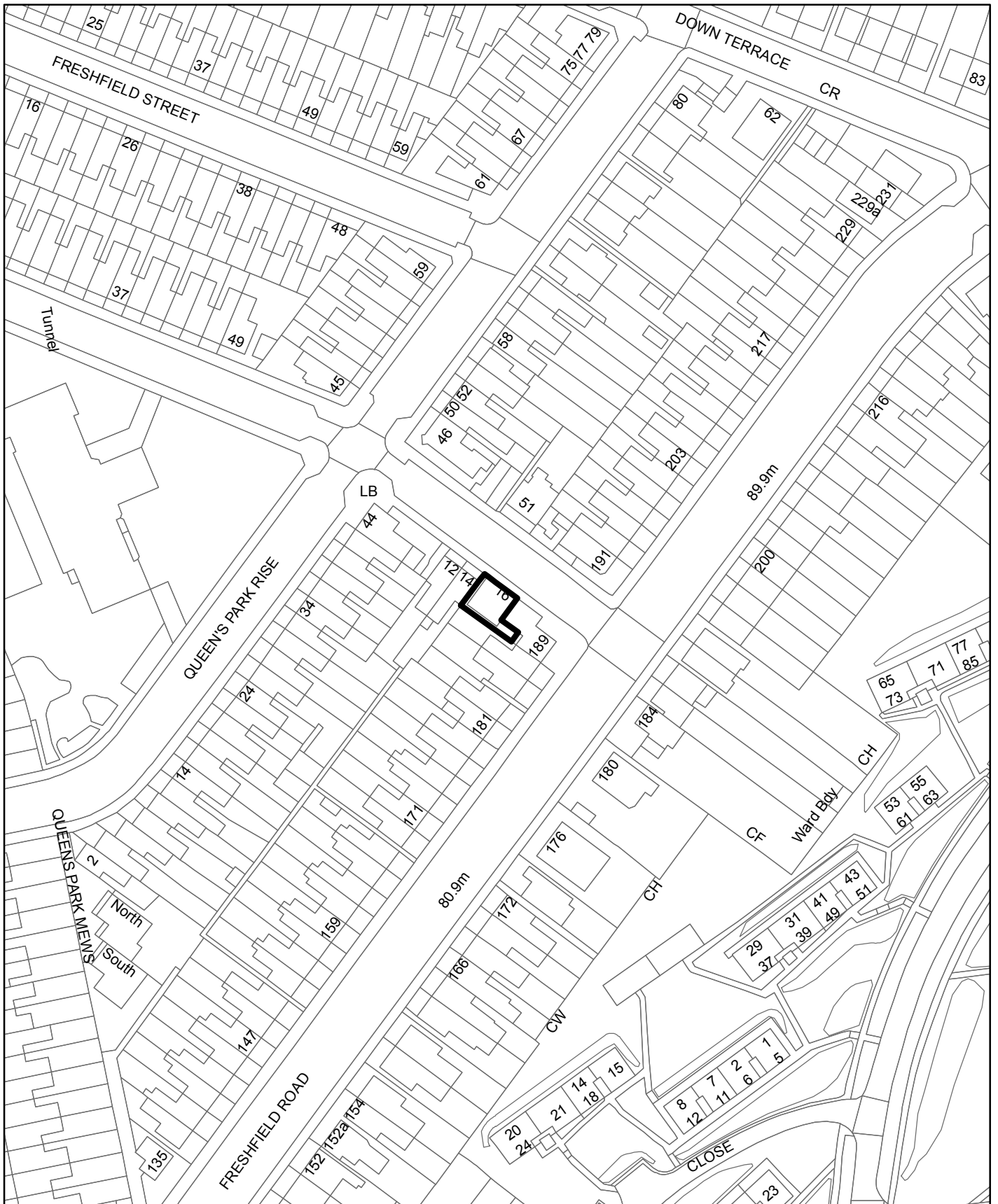
**BH2017/00693**

**Householder Planning Consent**

**DATE OF COMMITTEE 10<sup>th</sup> May 2017**



# BH2017- 00693 16 St Lukes Terrace Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |   |                            |                          |
|--------------------------------------|---|----------------------------|--------------------------|
| <b><u>No:</u></b>                    | <b>BH2017/00693</b>   | <b><u>Ward:</u></b>        | <b>Queen's Park Ward</b> |
| <b><u>App Type:</u></b>              | <b>Householder Planning Consent</b>   |                            |                          |
| <b><u>Address:</u></b>               | <b>16 St Lukes Terrace Brighton BN2 9ZE</b>   |                            |                          |
| <b><u>Proposal:</u></b>              | <b>Erection of single storey rear extension, alterations to fenestration and installation of flue pipe.</b> |                            |                          |
| <b><u>Officer:</u></b>               | Ayscha Woods, tel: 292322   | <b><u>Valid Date:</u></b>  | 03.03.2017               |
| <b><u>Con Area:</u></b>              | Adjoining Queens Park   | <b><u>Expiry Date:</u></b> | 28.04.2017               |
| <b><u>Listed Building Grade:</u></b> | N/A   | <b><u>EOT:</u></b>         |                          |
| <b><u>Agent:</u></b>                 | Caroline Wright 3 Dorset Place Brighton BN2 1ST   |                            |                          |
| <b><u>Applicant:</u></b>             | Dr Garry Felgate And Ms Ramona Liberoff 1 Eco Vale London SE23 3DL  |                            |                          |

Councillors Chapman and Barford have requested this application is determined by the Planning Committee.

## 1. RECOMMENDATION

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

### Conditions:

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

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

| <b>Plan Type</b>     | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|----------------------|------------------|----------------|----------------------|
| Location Plan        | -                | -              | 28 February 2017     |
| Block Plan           | -                | -              | 28 February 2017     |
| Floor Plans Proposed | STLUK104-02      | A              | 28 February 2017     |
| Elevations Proposed  | STLUK104-04      | A              | 28 February 2017     |
| Elevations Proposed  | STLUK104-05      | A              | 28 February 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 front window in the north elevation of the development hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

- 4 Privacy screening of 1.8m in height shall be installed for the full length of the extension hereby permitted on the on the southern boundary with no. 187 Freshfield Road. The screen shall thereafter be permanently retained.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

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 modest single storey dwellinghouse located to the south side of St. Luke's Terrace. The property forms a recent conversion of an ancillary store and garage. The modern development adjoins no. 14 St. Luke's Terrace to the west and 189 Freshfield Road to the east. The rear of the property is in close proximity to no. 187 Freshfield Road to the south. The application site adjoins the Queens Park Conservation Area.
- 2.2 Permission is sought for the erection of a proposed single storey rear extension, with alterations to the fenestration and the installation of a flue pipe.

## 3. **RELEVANT HISTORY**

BH2006/00601 - Conversion of ancillary store/garage to form a two bedroom single storey dwelling with new roof. (Resubmission of application **BH2005/01617/FP**). New external doorway and rooflights). Condition 2 of the planning permission granted, removed permitted development rights - Approved - 19/03/07

Pre-application advice was given in February 2017 and this subsequent planning application has addressed the previous concerns raised in advice the by way of reducing the height of the proposed chimney flue.

## 4. **REPRESENTATIONS**

### 4.1 **Neighbours**

One (1) letter has been received, objecting to the proposed development for the following reasons:

- Loss of light
- Overshadowing
- Overlooking
- Loss of privacy
- Encroaching and enclosing
- Noise disturbance

4.2 **Councillors Chapman and Barfield:** Object to the application (comments attached).

## 5. CONSULTATIONS

5.1 None.

## 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

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

QD14 Extensions and alterations

QD27 Protection of amenity

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

## 8. CONSIDERATIONS & ASSESSMENT

8.1 The application site was granted planning permission in 2006 (**BH2006/00601** - Conversion of ancillary store/garage to form a two bedroom single storey dwelling with new roof. (Resubmission of application **BH2005/01617/FP**). New external doorway and rooflights). Condition 2 of the planning permission granted, removed permitted development rights.

The main considerations in the determination of this application relate to the impact of the proposed extension and alterations on the appearance of the property, the streetscene and wider area, and the amenities of adjacent occupiers.

**8.2 Design and Appearance:**

The application site is situated to the rear of 189 Freshfield Road and adjoins no. 14 St. Luke's Terrace. As existing the rear bedroom of the property projects beyond the rear wall of the lounge area. The proposal would project 2.015m from the lounge area to the depth of the existing rear building line of the rear bedroom. As existing the rear of the property measures 0.9m from the boundary of no. 187 Freshfield Road. The proposed extension would project to the same depth as the existing property and have an eaves height of 2.7m. Although the extension would result in the loss of some private amenity space, the modest proposal is not considered to be substantially large in depth or height and given the constraints of the size of the plot, the proposal is considered acceptable in this instance.

8.3 The roof of the extension would match the existing height of the roof pitch and the materials would also be tiled to match the existing. In addition the proposed extension walls would be rendered to match the existing. This is considered welcome, in line with Policies QD14 and SPD12.

8.4 As existing the property has a large amount of glazing to the lounge area at the rear, and patio doors from the rear bedroom. Given the large amount of existing glazing to the rear, it is considered that the proposed glazed sliding doors to the rear would not result in significant harm.

8.5 The proposal shows a new window to the front elevation which would be obscurely glazed, as was previously conditioned under planning permission **BH2006/00601**.

8.6 It is noted that the pre-application submission raised concerns regarding the height of the proposed wood burning stove flue pipe. The plans submitted have addressed this concern, and the flue would now be an acceptable height and feature in the streetscene.

8.7 In addition, the alterations to the front elevation are considered acceptable and would not harm the appearance of the building or that of the wider area, in accordance with policy QD14 of the Brighton & Hove Local Plan and SPD12 guidance.

**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 property would not project beyond the rear wall of the existing house. As such the extension would not significantly affect no. 14 adjoining to the west.
- 8.10 In addition, the proposed extension would be set away suitably within the plot and set away from the boundary of no. 189 to the south east by 4.5m. As such the modest proposal would not result in significant harm in terms of daylight, sunlight, outlook and privacy following a site visit and no significant harm has been identified.
- 8.11 The host property is situated on land sloping down to the south adjacent to the rear garden of no. 187 Freshfield Road. The proposed extension would match the building line and eaves height of the existing property measuring 0.9m from the boundary with no. 187 with an eaves height of 2.7m, and 2.9m in height relative to the garden level of no. 187. It is acknowledged that the extension would be close to the boundary, however given the nbhg existing arrangement on site, the proposed extension is not considered to be harmful enough to warrant refusal of this application.
- 8.12 It is noted that the host property has a rear decking area and the screening on the boundary with 187 measures 1.5m in height relative to the land level of the host property. The boundary screening measures 2.2m in height relative to the neighbouring land level at no. 187. A height of 1.8m screening from the host property is secured by condition to overcome concerns raised regarding overlooking and loss of privacy.
- 8.13 Concerns regarding a loss of light and overshadowing to the neighbouring occupiers has been raised. The property is located to the north of the no. 187 Freshfield Road and it is therefore not considered that the extension would impact on this.
- 8.14 In addition, given the existing constraints of the site, it is not considered that the modest extension would result in any further harm in terms of noise disturbance to the neighbouring properties.

## **9. EQUALITIES**

- 9.1 None identified.



**From:** Daniel Chapman  
**Sent:** 16 March 2017 8:28 PM  
**To:** Molly McLean; Planning Applications  
**Cc:** Karen Barford  
**Subject:** BH2017/00693 - 16 St Lukes Terrace

Dear Molly,

Due to some concerns raised to us from residents about the above mentioned planning application (BH2017/00693), Councillor Barford and I would like to ask that this application is considered at a full planning meeting.

Many thanks

Daniel

Councillor Daniel Chapman, Queen's Park Ward  
Brighton and Hove City Council  
Chair - Children, Young People and Skills Committee



# **ITEM E**

**17 Marmion Road, Hove**

**BH2016/02639**

**Removal or Variation of Condition**

**DATE OF COMMITTEE 10<sup>th</sup> May 2017**



# BH2016/02639 17 Marmion Rd, Hove



**Brighton & Hove  
City Council**



**Scale: 1:1,250**





|                                      |   |                            |                                      |
|--------------------------------------|---|----------------------------|--------------------------------------|
| <b><u>No:</u></b>                    | <b>BH2016/02639</b>   | <b><u>Ward:</u></b>        | <b>Wish Ward</b>                     |
| <b><u>App Type:</u></b>              | <b>Removal or Variation of Condition</b>  |                            |                                      |
| <b><u>Address:</u></b>               | <b>YMCA 17 Marmion Road Hove BN3 5FS</b>  |                            |                                      |
| <b><u>Proposal:</u></b>              | <b>Application for variation of condition 2 of application BH2015/00914 (Demolition of existing building and erection of 5no three bedroom dwelling houses) to incorporate single storey extensions to rear elevation and the reconfiguration of the top floors and the removal of condition 14 which states that prior to first occupation of the development hereby permitted a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.</b> |                            |                                      |
| <b><u>Officer:</u></b>               | <b>Emily Stanbridge,</b>  | <b>tel:</b>                | <b><u>Valid Date:</u> 25.08.2016</b> |
|                                      | <b>292359</b>   |                            |                                      |
| <b><u>Con Area:</u></b>              | <b>N/A</b>  | <b><u>Expiry Date:</u></b> | <b>20.10.2016</b>                    |
| <b><u>Listed Building Grade:</u></b> | <b>N/A</b>  | <b><u>EOT:</u></b>         |                                      |
| <b><u>Agent:</u></b>                 | <b>Liam Russell Architects Ltd 24 Windlesham Road, Brighton, BN1 3AG</b>  |                            |                                      |
| <b><u>Applicant:</u></b>             | <b>Mr Gary Winslow C/o Liam Russell Architects 24 Windlesham Road, Hove, BN1 3AG</b>  |                            |                                      |

## 1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to the receipt of no representations raising additional material considerations within 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.

| <b>Plan Type</b>        | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|-------------------------|------------------|----------------|----------------------|
| Location and block plan | 1223-PA-001      | B              | 7 July 2015          |
| Floor Plans Proposed    | (GROUND) BR 100  | A              | 24 March 2017        |
| Floor Plans Proposed    | 1233-BR-115      |                | 13 July 2016         |
| Elevations Proposed     | 1223-BR-120      |                | 11 August 2016       |
| Elevations Proposed     | 1223-BR-121      |                | 13 July 2016         |
| Other                   | CANOPY DETAILS   |                | 26 August 2015       |

- 2 The development hereby permitted shall be commenced before the expiration of 3rd November 2018.  
**Reason:** For the avoidance of doubt and in the interests of proper planning
- 3 The hard surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct runoff water from the hard surface to a permeable or porous area or surface within the curtilage of the property.  
**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy SU4 of the Brighton & Hove Local Plan.
- 4 The new dwellings hereby permitted shall be constructed to Lifetime Homes standards prior to their first occupation and shall be retained as such thereafter.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
- 5 No extension, enlargement, alteration or provision within the curtilage of the of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A, B, D & 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.  
**Reason:** To protect the amenity of adjacent properties and in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 6 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.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD1 and QD27 of the Brighton & Hove Local Plan.
- 7 No development shall commence until full details of the existing and proposed land levels of the proposed development in relation to Ordinance Datum and to surrounding properties have been submitted to and agreed in writing by the Local Planning Authority. The details shall include finished floor levels and elevations with datum levels clearly marked. The development shall be constructed in accordance with the agreed details.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties, in addition to comply with policies QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One.
- 8 No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to

and approved in writing by the Local Planning Authority, including (where applicable):

- a) Samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) Samples of all cladding to be used, including details of their treatment to protect against weathering
- c) Samples of all hard surfacing materials
- d) Samples of the proposed window, door and balcony treatments
- e) Samples of all other materials to be used externally

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

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

9 The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:

- a) A site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2001; and, unless otherwise agreed in writing by the Local Planning Authority,
- b) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.

The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of (i) (b) above that any remediation scheme required and approved under the provisions of (i) (b) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:

- a) As built drawings of the implemented scheme;
- b) Photographs of the remediation works in progress; and
- c) Certificates demonstrating that imported and/or material left in situ is free from contamination.

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

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

- 10 No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall outline how noise and dust shall be controlled during the demolition and construction phases of this development. Details about how local residents can contact the developers regarding complaints shall also be provided.

The methods and details outlined in the CEMP shall be strictly adhered to throughout the demolition and construction of this development.

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

- 11 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 QD17 of the Brighton & Hove Local Plan.

- 12 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:

- Details of all hard surfacing.
- Details of all boundary treatments.
- Details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees.

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

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

- 13 The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully

implemented and made available for use. These facilities shall thereafter be retained for use at all times.

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

14 Not Used

15 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.

16 Prior to the first occupation of the dwelling immediately adjacent 19 Marmion Road, details of a screen adjacent to the western side of the rear roof terrace shall be submitted to and approved by the Local Planning Authority. The screen shall be 1.7m high from the finished floor level and shall be implemented strictly in accordance with the agreed details and thereafter retained as such.

**Reason:** To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

17 None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).

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

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

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

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 With respect to condition 15, the applicant is advised that the cycle storage should be placed in the rear gardens of each dwelling. The cycle parking must be secure, convenient, well lit, well signed and wherever practical, sheltered. The Highway Authority's preference is for the use of Sheffield type stands

spaced in line with the guidance contained within the Manual for Streets section 8.2.22.

- 3 The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
- 4 The water efficiency standard required under condition 18 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
- 5 The applicant is advised that the landscaping scheme should include at least 2 trees to compensate for the loss of the existing trees on site.
- 6 Details to be submitted in accordance with condition 8 shall include agreement of render to be constituted of painted sand and cement.

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

- 2.1 The application site relates to two-storey community centre located on the north side of Marmion Road. The building dates from the early 1900's and is a pitched roof red brick property with a large central gable ended addition. To the front of the building is a hardstanding area. The building is in close proximity to the Drill Hall to the rear. To each side of the building is a small alleyway.
- 2.2 Marmion Road is mainly comprised of two-storey dwelling houses of traditional design. The majority of houses have a part brick /part rendered finish.

## **3. RELEVANT HISTORY**

**BH2015/00914:** Demolition of existing building and erection of 5no three bedroom dwelling houses. Approved 3<sup>rd</sup> November 2015.

**BH2009/01220:** Construction of a new access ramp to front of property, including alterations to front entrance door. Approved 28/07/2009.

**3/83/0366:** Ground and first floor extensions at rear. Approved 1983.

**M/597/49:** Alterations and additions to provide cloakroom and changing accommodation, kitchen etc. Approved 1949.

#### **4. REPRESENTATIONS**

4.1 Twenty Five (25) letters has been received from objecting to the proposed development for the following reasons:

- Overlooking
- Loss of privacy
- Off-street parking is out of character with the street
- The new accesses will be dangerous for pedestrians and other road users
- Loss of revenue to the council
- Loss of on-street parking
- Development will set a precedent
- YMCA was a resource to the local community
- Already existing traffic issues
- The position of the primary school means there are a large number of children using the pavement
- Not in keeping with the original eco-friendly scheme
- Cramped new development
- Loss of two trees
- The design of the houses are not in character with the rest of the road
- The height of the Drill Hall has been inaccurately shown on the plans

4.2 **Councillor Nemeth** supports the application (comments attached).

#### **5. CONSULTATIONS**

5.1 **Sustainable Transport:** No objection

5.2 The applicant originally proposed to remove on-street parking in order to construct vehicle crossovers serving off-street parking for the consented dwellings. Following the Highway Authority's original concerns dated 13/10/2016, the applicant subsequently submitted a parking survey and revised plans showing the retention of some on-street parking. The revised layout was not considered acceptable and as such it was expected that up to 25m of parking would be lost were the proposals consented.

5.3 The parking survey has been undertaken using an acceptable methodology. This indicates that there is some capacity on Marmion Road and the wider survey area. Specifically, permit holders only parking was recorded as being 79% occupied (11 free spaces) on Marmion Road. On this basis, it is considered reasonable to remove the car free condition in this instance. This would have a reduced impact on on-street parking provision than the previous proposal to install vehicle crossovers.

5.4 It should however be noted that the entitlement of future residents to on-street parking permits will be subject to the usual application process.

#### **6. MATERIAL CONSIDERATIONS**

6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and

proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

6.2 The development plan is:

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

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

## 7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP1 Housing delivery

CP8 Sustainable buildings

CP9 Sustainable transport

CP12 Urban design

CP13 Public streets and spaces

CP14 Housing density

CP19 Housing mix

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

TR7 Safe Development

TR14 Cycle access and parking

QD5 Design - street frontages

QD14 Extensions and alterations

QD27 Protection of amenity

HO5 Provision of private amenity space in residential development

HO13 Accessible housing and lifetime homes

HO20 Retention of community facilities

Supplementary Planning Guidance:

SPD14 Parking Standards

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

## 8. **CONSIDERATIONS & ASSESSMENT**



- 8.1 The approved scheme was granted (BH2015/00914) on the 3rd November 2015. The Local Planning Authority considered the scheme to be acceptable in all regards and secured various details and measures by planning conditions.
- 8.2 The considerations to be taken into account in this application solely relate to the changes to conditions 2 and 14 of the previous permission.
- 8.3 **The proposed variation of condition 2:**  
This application seeks to amend the approved drawings of application **BH2015/00914**. These alterations include:
- The incorporation of single storey rear extensions
  - The internal reconfiguration of the second floor
  - Increase in size of the front terrace by 1.6sqm
  - Changes to the position of the rear wall at second floor level resulting in the reduction in size of the rear terrace
  - Changes to fenestration
- 8.4 Single storey rear extensions  
This application incorporates single storey rear extensions at ground floor level. The proposed extensions project to a depth of approximately 2m. The extensions feature a pitched roof, brick finish and bi-folding doors to the rear. The extensions proposed are considered to form suitable additions to the rear elevations of this terrace group.
- 8.5 In addition given the ground floor level of these additions it is not envisaged that harmful impact would result to the amenities of neighbouring properties. Furthermore the level of private amenity space proposed would remain sufficient for the future occupiers of these properties.
- 8.6 The reconfiguration of the second floor  
A number of minor amendments are proposed to the top floor of each unit proposed. The eastern side of the front elevation is to be set back by approximately 0.8m, replicating the design of the first floor below. This set back will allow for an increase in size to the front terrace proposed by 1.6sqm. The fenestration proposed is in line with what as previously approved with the addition of a single width glazed doorway. It is considered that the appearance of the front elevation from the streetscene will largely remain as per application **BH2015/00914**.
- 8.7 Amendments have been made to the rear elevation of the property. The rear wall to the main body of each property is to be extended by approximately 1.245m to create a flush elevation. As a result, the setback of this wall reduces the size of the rear terrace from 9.6sqm as approved to 3.8sqm. The resultant depth of the terrace is approximately 0.75m.
- 8.8 Whilst the extension to the second floor level results in a flush appearance to the rear of the property, the second floor retains a subservient appearance given its setback from the rear wall at first and ground floor level. The rear

elevation at second floor level now incorporates the installation of bi-fold doors and a small vertical window.

- 8.9 It is not considered that the proposed changes to the rear will further impact upon the amenities of neighbouring occupiers. The level of glazing proposed is similar to that of application **BH2015/00914**. Furthermore the reduction in size of the rear terrace restricts there usability. Given its depth it is unlikely that large items of furniture would be place on the terrace.
- 8.10 The amendments proposed at second floor level result in changes to the internal layout of the units proposed. The previous application featured a master bedroom with a rear winter sun room, whilst the current application seeks to provide a more open layout for a large bedroom suite with bathroom. The layout of the top floor is considered to provide a good standard of accommodation.
- 8.11 It is considered that the minor changes proposed to the application **BH2015/00914** are considered acceptable and in accordance with relevant development plan policies.
- 8.12 Other matters  
Objectors to the rear of the application site, on Stoneham Road have identified inaccuracies on plan 1223-PA-021 A under application **BH2015/00914** which showed the proposed east and west side elevations of the development proposed. Notably the plans show the height of the Drill Hall inaccurately. Notwithstanding this a site visit was undertaken and it was considered that the rear terraces would not result in harmful impact to these rear properties.
- 8.13 For the avoidance of doubt application **BH2015/00914** remains extant and the current proposal is considered on its own merits having regard to its impact on neighbouring occupiers.
- 8.14 **The removal of condition 14:**  
Condition 14 of application BH2015/00914 states:  
  
'Prior to first occupation of the development hereby permitted, a scheme shall have been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.  
**Reason:** To ensure that the development is car-free and to comply with policy HO7 of the Brighton & Hove Local Plan.'
- 8.15 Amendments have been made during the lifetime of this application regarding the parking arrangements on site.
- 8.16 Originally this application sought to provide off-street parking to each unit, however concerns were raised by the Highways Team that this would result in a substantial loss of on-street parking which the applicant had not demonstrated would not have a negative impact upon existing capacity. In addition it was

noted that the proposed layout for the parking proposed would not comply with the council's crossover guidance.

- 8.17 Following this advice, a parking survey was submitted by a Transport Consultant undertaken at 00.30 on Tuesday 22nd November 2016, covering a number of roads including Marmion Road, Scott Road, School Road and Stoneham Road, as advised by the Highways Team.
- 8.18 The parking survey submitted has been undertaken using an acceptable methodology and indicates that there is some capacity on Marmion Road and the wider survey area. Specifically, permit holders only parking was recorded at being 79 percent (11 free spaces) in Marmion Road.
- 8.19 On this basis the Highways Team considered it reasonable to remove the car free condition in this instance. The removal of this condition would have a reduced impact on on-street parking provision than the previous proposal to install vehicle crossovers.
- 8.20 In addition to the parking survey submitted, the council has supplemented this by undertaking their own investigations through a number of site visits to record parking demand within the area. The roads surveyed, match those contained within the professional parking survey. The findings of these investigations are below.

| <b>Date of survey</b>                        | <b>Time of survey</b> | <b>Approximate number of total available spaces within survey area</b> |
|--|-----------------------|--|
| 11 <sup>th</sup> January 2017<br>(Wednesday) | 07.50am               | 38   |
| 11 <sup>th</sup> January 2017<br>(Wednesday) | 18.50pm               | 56   |
| 17 <sup>th</sup> January 2017<br>(Tuesday)   | 08.00am               | 43   |
| 17 <sup>th</sup> January 2017<br>(Tuesday)   | 18.45pm               | 54   |
| 19 <sup>th</sup> January 2017<br>(Thursday)  | 07.30am               | 39   |
| 19 <sup>th</sup> January 2017<br>(Thursday)  | 19.00pm               | 39   |
| 23 <sup>rd</sup> January 2017<br>(Monday)    | 07.30am               | 39   |
| 29 <sup>th</sup> January 2017<br>(Sunday)    | 08.50am               | 51   |

- 8.21 During the council's investigations it was noted that vehicles were rarely parked directly in front of the site. Not only does there appear to be capacity within the street as a whole, but it seems unlikely that any on-street parking for the new

dwellings would significantly disrupt existing residents parking patterns and routines.

8.22 Therefore the application to remove the car free condition in this instance is considered acceptable.

## **9. EQUALITIES**

9.1 None identified.

Dear Emily

Further to our chat on the telephone, I'm e-mailing to confirm my position on application BH2016/02639 (the old YMCA on Marmion Road).

I have chatted with many of my residents about this application and certainly sympathise with concerns that have been raised.

My initial concerns were solely focused on the proposed addition of driveways to the scheme. I haven't spoken to anybody who wasn't worried about this element of the proposal. Driveways would have removed as much parking from the street as they created whilst causing damaging to the street scene, adding danger to a busy pavement near a park, and preventing the creation of some potentially very pleasant green spaces. I'm delighted that this element of the proposal has now gone. It was well worth my time persuading the developer to drop this part of the proposal.

Whilst it is the case that few existing residents will be in favour of the removal of the car-free condition of the scheme, I'd much rather that the parking issue was settled now than see it come back in the future. I don't believe that it was fair to impose car-free in the first place.

The removal of the condition will regularise the situation. These houses obviously need parking.

I should be grateful if you would record my position as now in favour of the scheme.

Thanks

Cllr Robert Nemeth - Wish Ward  
Brighton & Hove City Council



# **ITEM F**

**Canons, 27A Preston Park Ave, Brighton**

**BH2017/00262**

**Variation Of Condition**

**DATE OF COMMITTEE 10<sup>th</sup> May 2017**





# BH2017/00262 Canons 27A Preston Park Ave Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |   |                            |                          |
|--------------------------------------|---|----------------------------|--------------------------|
| <b><u>No:</u></b>                    | <b>BH2017/00262</b>   | <b><u>Ward:</u></b>        | <b>Preston Park Ward</b> |
| <b><u>App Type:</u></b>              | <b>Removal or Variation of Condition</b>  |                            |                          |
| <b><u>Address:</u></b>               | <b>Canons 27A Preston Park Avenue Brighton BN1 6HL</b>  |                            |                          |
| <b><u>Proposal:</u></b>              | <b>Variation of condition 1 of application BH2016/01925 (Demolition of existing dwelling and erection of 1no two storey three bedroom dwelling (C3).) to allow increase in height of parapet to sedum roof.</b> |                            |                          |
| <b><u>Officer:</u></b>               | Luke Austin, tel: 294495  | <b><u>Valid Date:</u></b>  | 30.01.2017               |
| <b><u>Con Area:</u></b>              | Preston Park  | <b><u>Expiry Date:</u></b> | 27.03.2017               |
| <b><u>Listed Building Grade:</u></b> | N/A   | <b><u>EOT:</u></b>         |                          |
| <b><u>Agent:</u></b>                 | Ms Olivia Moune The Workshop Unit 3 29-42 Windsor Street Brighton BN1 1RJ   |                            |                          |
| <b><u>Applicant:</u></b>             | Mr Jon Woodfine C/o Landivar Architects Limited The Workshop Unit 3 29-42 Windsor Street Brighton BN1 1RJ   |                            |                          |

## 1. RECOMMENDATION

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

### Conditions:

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

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

| <b>Plan Type</b>     | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|----------------------|------------------|----------------|----------------------|
| Elevations Proposed  | D.002 - REV. F   |                | 25 January 2017      |
| Elevations Proposed  | D.003 - REV. B   |                | 25 January 2017      |
| Boundary treatments  | AA.001 - REV. A  |                | 22 November 2016     |
| Floor Plans Proposed | D.001 - REV. E   |                | 25 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 Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

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

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

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

- 5 The residential unit hereby approved shall not be occupied until it has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.

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

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

- a) Samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) Samples of all cladding to be used, including details of their treatment to protect against weathering
- c) Samples of all hard surfacing materials
- d) Samples of the proposed window, door and balcony treatments
- e) Samples of all other materials to be used externally

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

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

- 7 The dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

- 8 No development shall commence until fences for the protection of trees and hedgerow to be retained on the southern boundary of the site at the neighbouring block, Whisler Court, have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be erected in accordance with BS5837

(2012) and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

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

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

- a) Details of all hard surfacing;
- b) Details of all boundary treatments;
- c) Details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees.

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

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

- 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, a method statement to identify, risk assess and address the unidentified contaminants.

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

- 11 The first floor living room and kitchen windows to the southern side elevation of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.

- 12 Prior to first occupation of the development hereby permitted the 2m fence to the southern boundary and the louvered screening to the first floor southern side window of the glazed link shall be installed in their entirety shall be retained as such thereafter.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 13 The hard surfaces to the driveway of the dwelling hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.  
**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy CP11 of the City Plan
- 14 Prior to the occupation of the dwelling hereby approved detail of the slatted screen including finished materials, size of aperture and angle of slats shall be submitted to and agreed in writing with the Local Planning Authority. The approved details shall be fully implemented prior to occupation and thereafter fully retained.  
**Reason:** To protect the privacy and amenity of future occupiers and neighbours in accordance with policy QD27 of the Brighton and Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
3. The water efficiency standard required under condition XX is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site relates to a two storey property located to the east side of Preston Park Avenue. The existing property is set in a narrow plot between two blocks of flats. The property adjoins the boundary of Park Court to the north and is set close to the boundary of Whistler Court to the south. The existing property is box shaped with a flat roof and includes a garage with storage space at lower ground floor level with living accommodation above. The property is set back from the street with a double width driveway and includes a rear garden some 50m deep, set above first floor level to the rear.
- 2.2 There is a significant change in levels up from the street towards the rear of the site. It should be noted that the existing building is built into the slope (although there is a small incline between the back edge of pavement and front elevation) whereas both neighbouring apartment blocks step up the slope.
- 2.3 Demolition of the existing building and the erection of a replacement dwelling was approved under application **BH2016/01925**. This application seeks permission to vary the approved scheme by way of increasing the height of the entire structure by 530mm. The design of the building would otherwise remain the same as the development approved under application **BH2016/01925**.
- 2.4 The applicant has stated within their covering letter that 'the reason for this increase is partly to accommodate a greater growing substrate for the consented green roof to enable a locally relevant build-up of vegetation to take root and successfully flourish and also to give an additional 200mm of internal floor to ceiling height to the first floor'.

## 3. RELEVANT HISTORY

**BH2016/01925** - Demolition of existing dwelling and erection of 1no two storey three bedroom dwelling (C3). Approved 19/12/2016.

**BH2016/00456** - Demolition of existing single dwelling and erection of 1no two storey three bedroom single dwelling (C3). Refused 13/05/2016 for the following reasons:

1. *The height and width of the proposed building on the boundary with Park Court to the north would be overbearing in terms of the visual amenities of the occupier of Flat 7 Park Court by reason of loss of outlook to the southerly aspect where the great majority of outlook from those premises is obtained. The proposal is thus not in accordance with retained policy QD27 of the Brighton & Hove Local Plan.*
2. *The absence of any proposed boundary enclosure on the southern site boundary considered along with the size of the proposed south facing first floor windows would be liable to give rise to overlooking of north facing habitable rooms on the ground and first floors of Whistler Court. The proposal is thus not in accord with retained policy QD27 of the Brighton & Hove Local Plan.*

Application **BH2016/00456** was also dismissed at appeal (**APP/Q1445/W/16/3152/104**) in September 2016.

The appeal was dismissed due to loss of privacy and overlooking from the proposed southern elevation kitchen doors and external terrace to several of the lower level flats within Whistler Court to the south of the application site. No significant harm was identified relating to the occupiers of Park Court to the north. The Inspector's report also concluded that the level of detail relating to the southern boundary treatment and the relationship between the proposal and the neighbouring blocks of flats was not clear from the submission.

**BH2015/02993** - Erection of additional floor, conversion of existing garage to habitable space, alterations to fenestration and associated works Refused 23/11/15.

**92/0605/FP** - Proposed pitched roof onto existing flat roof to provide additional living accommodation. Elevational alterations. Refused 06/04/1993.

#### **4. REPRESENTATIONS**

4.1 **Nine (9)** letters have been received objecting to the proposed development for the following reasons:

- It is not acceptable for this building to increase in height
- It is not reasonable to assume that the proposal "has already been tested and approved by the planning inspectorate".
- Would have an overbearing presence on the lower flats of Whistler Court.
- Unacceptable overshadowing
- It seems this variation is a 'back door' way of getting the height increased.
- Loss of light
- An increase in height of more than half a metre is excessive
- Clearly the intent is to raise the building height is to gain more internal space.
- Unclear to us which is the actual true height of the existing building
- Any extra height will severely overshadow Flat 7 Park Court. The kitchen window and door, lends crucial daylight to the internal hallway of Flat 7.
- Loss of privacy, loss of light.
- There is no room for extension due to the close proximity.
- A waste of our time and resources.

#### **5. CONSULTATIONS**

5.1 **Heritage:** No objection

5.2 **Sustainable Transport:** No objection

#### **6. MATERIAL CONSIDERATIONS**



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

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP12 Urban design
- CP14 Housing density
- CP15 Heritage
- CP19 Housing mix

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

- TR7 Safe Development
- TR14 Cycle access and parking
- SU9 Pollution and nuisance control
- QD5 Design - street frontages
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes
- HE6 Development within or affecting the setting of conservation areas

#### Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD06 Trees & Development Sites
- SPD09 Architectural Features

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1 The principal of the demolition of the existing dwelling and the erection of a replacement dwelling has already been approved under application **BH2016/01925**. Therefore the sole consideration in the determination of this application relates to the impacts of the proposed additional 530mm in height to the building.
- 8.2 **Design and Appearance:**  
It is considered that the increase in the height of the parapet to the new house, by 530mm, would not make the new house significantly more prominent in the street scene than the approved house and overall it remains the case that there would be no adverse impact on the appearance or character of the Preston Park Conservation Area.
- 8.3 **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.
- 8.4 With the park opposite the site and a very long back garden, the most affected by the proposal are the occupiers of apartments in Park Court to the north and Whistler Court to the south of the site.
- 8.5 Park Court adjoins the property to the north and includes a side access path with brick wall creating a 1.9m gap between the two buildings. Park Court is a block of 15 flats several of which include windows that face south towards the application site. The flats that contain South facing windows include 7, 8, 10, 11, 13 and 14. As flats 13 and 14 are high level it is not considered that the proposal would result in any significant harm to them. Flat 11 includes four South facing windows that look out over the application site, however the windows are set at a higher level than the proposal. It is therefore considered that the proposed additional height would not result in significant harm to the South facing windows of flat 11 Park Court.
- 8.6 Flats 7, 8 and 10 and Park Court all include south facing windows serving bedrooms and kitchens that look out onto/over the application site. Flats 8 and 10 include windows serving habitable rooms which are set to the rear and at a higher level than the application site. Flat 7 is set at a similar level to the first floor of the application site and includes a side facing kitchen window set within close proximity of the application site. Flat 7 also includes an obscure glazed bathroom window and side facing bedroom window which both face the application site.

- 8.7 There have been two applications for similar schemes submitted for this site within the last year - **BH2016/00456** and **BH2016/01925**, which should be noted. The former application (**BH2016/00456**) for the demolition of the existing single dwelling and erection of a two storey three bedroom single dwelling (C3) was refused for the following reasons:
1. *The height and width of the proposed building on the boundary with Park Court to the north would be overbearing in terms of the visual amenities of the occupier of Flat 7 Park Court by reason of loss of outlook to the southerly aspect where the great majority of outlook from those premises is obtained. The proposal is thus not in accord with retained policy QD27 of the Brighton & Hove local Plan.*
  2. *The absence of any proposed boundary enclosure on the southern site boundary considered along with the size of the proposed south facing first floor windows would be liable to give rise to overlooking of north facing habitable rooms on the ground and first floors of Whistler Court. The proposal is thus not in accord with retained policy QD27 of the Brighton & Hove Local Plan.*
- 8.8 Application **BH2016/00456** was also dismissed at appeal (APP/Q1445/W/16/3152104) based on the Inspector's following conclusion:
- 8.9 *'I conclude that the occupiers of Whistler Court could experience actual or perceived losses of privacy from the Southern kitchen doors and the adjoining terrace, when compared with the prevailing situation, and that this would be harmful to the living conditions of those residents. On this basis I find there would be conflict with retained policy QD27 of the Brighton and Hove Local Plan of 2005, insofar as the development would be harmful to the living conditions of neighbouring residents'.*
- 8.10 Furthermore the Inspector's report concluded in relation to the impact of the proposal on occupiers of Park Court that *'the replacement dwelling would not cause an unacceptable reduction in the outlook from Flat 7's kitchen', and that 'while there would be some potential for a reduction in the outlook from the bedroom, I consider that this would not be at a level that be harmful to the living conditions for the occupiers of Flat 8'.*
- 8.11 Subsequently to the dismissed appeal the latter application (BH2016/01925) was submitted and approved at Planning Committee earlier this year. The amended scheme addressed the harmful aspects of the previous submission identified by the Inspector by way of clarification of the boundary treatment, removal of fenestration to the southern side elevation in addition to mitigation relating to loss of privacy including screening, louvered screens, obscure glazing and revised glazing.
- 8.12 The current proposal would retain the design and mitigation methods mentioned above whilst increasing the entire height of the structure by 530mm in comparison to the previous approval. The resultant height would be approximately 200mm lower in height than proposed under application **BH2016/00456** which was dismissed at appeal (APP/Q1445/W/16/3152104). As

with the previous approval there would be no glazing on the northern side elevation which would not give rise to loss of privacy. Whilst the additional height of the proposal would be within close proximity to Park Court and would be visible, in light of the Inspector's report which related to a taller proposal, it is considered that a refusal based on the impact on amenity of the occupiers of Flats 7 and 8 Park Court would not be warranted in this case.

- 8.13 Turning to Whistler Court the additional height of the proposed building would be visible from the north facing windows of flats 1, 6 and 5 Whistler Court, all of which overlook the site. The main impact of the previous refused application (**BH2016/00456**) on Whistler Court related to a loss of privacy and lack of clarity with regards to the boundary treatment and levels. The height, loss of light and outlook was not identified as significant within the Officer's recommendation or the Inspector's report, other than the potential overbearing harm from the necessary boundary screening. As the mitigation methods which addressed the overlooking concerns mentioned above have been retained within this application the only area of concern is the potential overbearing impact and loss of outlook and as a result of the additional 530mm.
- 8.14 Although flat 5 is within close proximity to site it is not considered that the works would result in significant harm due to the level of separation between to property and the development site.
- 8.15 Flat 1 of Whistler Court is located on the ground floor on the Northern side of the block and includes north facing windows that look out onto the application site. Three of these windows serve bedrooms and are the primary windows and source of outlook for each room. The additional height is not considered to result in significant harm in comparison to the existing arrangement and previous approval.
- 8.16 Flat 6 Whistler Court is located to the Northern side of the block and includes side facing windows, two serving a living room and one serving a kitchen, that are set slightly above the height of the proposal. Flat 6 also includes a front balcony with glazed doors providing access from the living room. As with the previous approval it is considered that the front balcony and primary outlook would remain relatively unaffected. As the proposed additional height would be set at a lower level than the previous refusal (**BH2016/00456**) it is not considered that the proposal would result in significant loss of light or an overbearing impact.
- 8.17 **Conclusion:**  
On balance therefore, having regard to the previous applications, the assessment above in addition to the Inspector's conclusions relating to a taller, more harmful proposal, it is not considered that the proposed additional 530mm in height to the building would result in significant harm to neighbouring amenity. Furthermore it is not considered that the proposed additional height would result in significant harm to the streetscene or Preston Park Conservation Area.

## 9. EQUALITIES

9.1 None identified.



# **ITEM G**

**9 Sunnydale Ave Brighton**

**BH2016-06262**

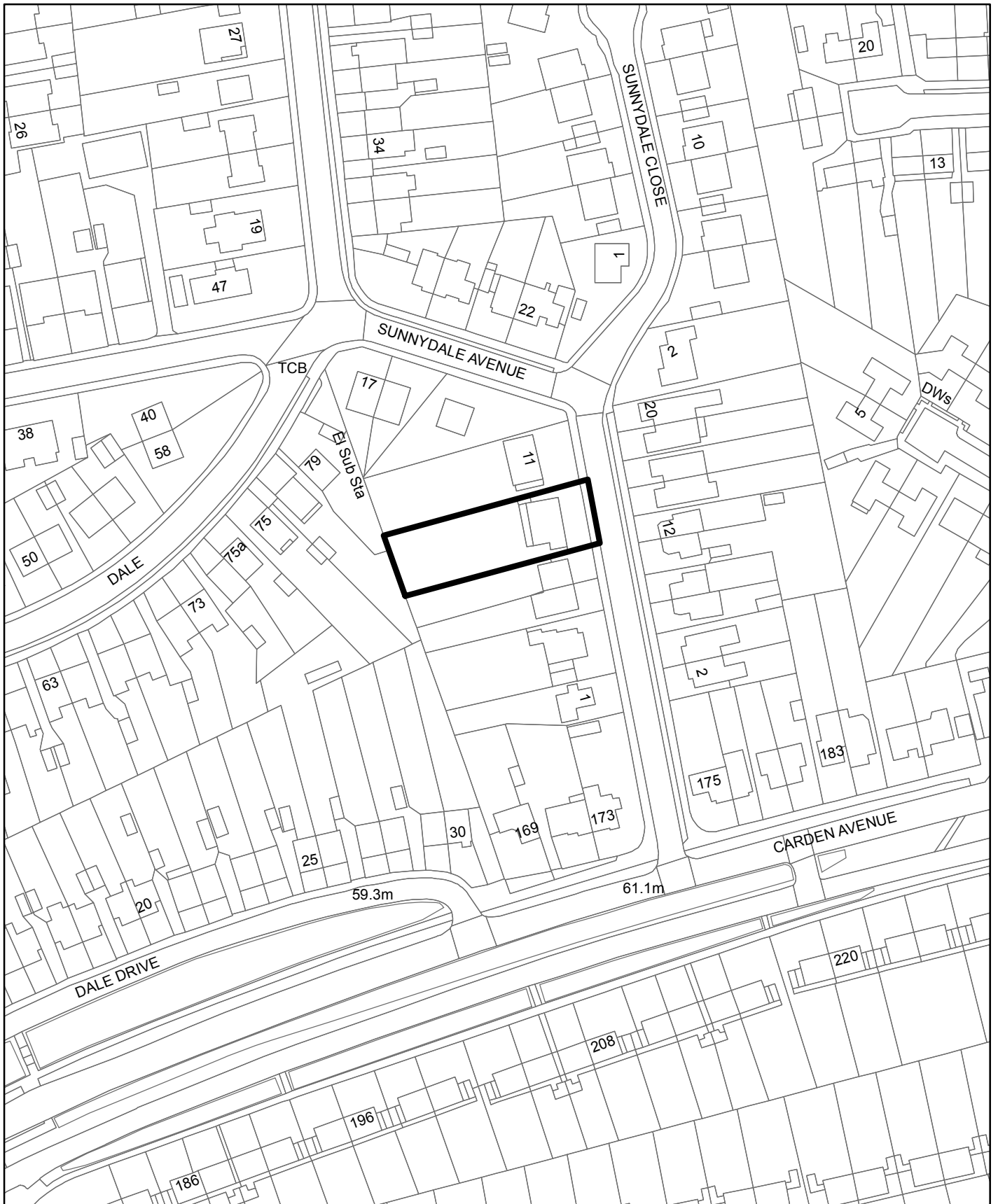
**Full Planning**

**DATE OF COMMITTEE 10<sup>th</sup> May 2017**





# BH2016/06262 9 Sunnydale Ave, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**



|                                      |   |                            |                     |
|--------------------------------------|---|----------------------------|---------------------|
| <b><u>No:</u></b>                    | <b>BH2016/06262</b>   | <b><u>Ward:</u></b>        | <b>Patcham Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>  |                            |                     |
| <b><u>Address:</u></b>               | <b>9 Sunnydale Avenue, Patcham, Brighton</b>  |                            |                     |
| <b><u>Proposal:</u></b>              | <b>Demolition of existing bungalow (C3) and erection of 2no four bedroom residential dwellings (C3) with vehicle crossover.</b> |                            |                     |
| <b><u>Officer:</u></b>               | Andrew Huntley, tel: 292106   | <b><u>Valid Date:</u></b>  | 05.12.2016          |
| <b><u>Con Area:</u></b>              | N/A   | <b><u>Expiry Date:</u></b> | 30.01.2017          |
|                                      |   | <b><u>EoT/PPA Date</u></b> |                     |
| <b><u>Listed Building Grade:</u></b> | N/A   |                            |                     |
| <b><u>Agent:</u></b>                 | ECE Architecture Limited, Brooklyn Chambers, 11 Goring Road, Worthing, BN12 4AP   |                            |                     |
| <b><u>Applicant:</u></b>             | Silverhaus Ltd, Mr Will Brandt, 41 Brooker Street, Hove, BN3 3YX  |                            |                     |

## 1. RECOMMENDATION

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

Conditions:

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

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

| <b>Plan Type</b>              | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|-------------------------------|------------------|----------------|----------------------|
| Site Location Plan            | 6395             |                | 05 December 2016     |
| Block & Site Plan             | 6395-01          | C              | 07 December 2016     |
| Existing Topographical Survey | 16086-02-T-E     | A              | 28 November 2016     |
| Existing Elevations           | 16080-02-E-GA    |                | 28 November 2016     |
| Proposed Floor Plans          | 6395-02          | A              | 28 November 2016     |
| Proposed Sections             | 6395-03          | B              | 28 November 2016     |
| Proposed Sections             | 6395-04          | B              | 28 November 2016     |
| Proposed Street Elevation     | 6395-05          | B              | 28 November 2016     |
| Proposed Elevations           | 6395-06          | B              | 28 November 2016     |
| Proposed Elevations           | 6395-07          | C              | 28 November 2016     |
| Proposed Floor Plans          | 6395-08          |                | 28 November 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 above ground floor slab level of any part of the development hereby permitted shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings and hard surfaced areas hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton and Hove City Plan Part One.
- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement, alteration or provision within the curtilage of the dwellings, as provided for within Schedule 2, Part 1, Classes A-E, other than those expressly authorised by this permission, shall be carried out within the curtilage of any dwelling house.  
**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policy QD14 and QD27 of the Brighton & Hove Local Plan.
- 5 Prior to first occupation of the development hereby permitted, pedestrian crossing improvements (dropped kerbs with paving and tactile paving if appropriate) shall have been installed at the junction of and across Dale Drive with Carden Avenue.  
**Reason:** To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7, TR11 and TR12 of the Brighton & Hove Local Plan & CP9 of the Brighton and Hove City Plan Part One.
- 6 The new/extended crossovers and accesses shall be constructed prior to the first occupation of the development hereby permitted.  
**Reason:** In the interests of highway safety and to comply with policies TR1 and TR7 of the Brighton & Hove Local Plan.
- 7 The parking areas shown on the approved plans shall be completed prior to the first occupation of the development and retained for that use for the occupants and visitors of the development thereafter.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton and Hove City Plan Part One.
- 8 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.

- 9 The first floor windows in the northern and southern elevations of the development hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 10 The dwellings hereby approved shall be completed in accordance with the Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to the first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice or Initial Notice to enable building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
- 11 None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
- 12 None of the residential units hereby approved shall be occupied until each residential unit has achieved a water efficiency standard using not more than 11 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
- 13 Prior to the first occupation of the development hereby approved, a detailed plan showing the position, height, design, materials and type of all existing and proposed boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided prior to the first occupation of the development as approved and retained in such a condition thereafter.  
**Reason:** To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
- 14 Prior to the first occupation of the dwellings hereby permitted, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include: planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants (noting numbers, densities and implementation programme and extensive replacement tree planting. It shall also include a scheme to enhance the nature conservation interest of the site, to accord with the standards described in Annex 7 of Supplementary Planning Document 11: Nature Conservation and Development.

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

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

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

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

Informatives:

- 1 In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
- 2 The planning permission granted includes an obligation upon the applicant to carry out small scale footway improvements on the adopted (public) highway that is owned by the Highway Authority (in this case Brighton & Hove City Council). Previously the applicant would have been conditioned to enter into a bespoke legal agreement and pay a contribution towards these works being carried out for the benefit of the development but to amongst other reasons reduce the costs of these works for all parties concerned the council is now obligating the applicant to carry out these works. The applicant or their representative is advised to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 293366) who will provide information and if approved, a licence (instead of a bespoke legal agreement) for what can be done, when & where, who will be permitted to carry out the works, possible contractor contact details, design advice, material advice and will check that the footway improvements are built satisfactorily. The emphasis where possible is on minimising what needs to be done to build a satisfactory footway improvement for the benefit of the applicant, future occupants and visitors of the site and the community as a whole, and in particular the mobility and visually impaired of those respective groups. Finally be advised that the applicant or their representative must obtain all necessary highway approval from the Highway Authority prior to any works commencing on the adopted (public) highway to satisfy the law and requirements of condition 5.

- 3 The planning permission granted includes a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.
- 4 The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
- 5 The water efficiency standard required under condition 12 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
- 6 The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)).

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

- 2.1 The application site is located on the western side of Sunnydale Avenue and presently consists of a detached bungalow with an attached flat roofed garage. The area is residential in character with a mix of property types and styles. The land slopes down significantly north to south.
- 2.2 Planning permission is sought for the demolition of the existing bungalow and the erection of 2 no. two storey dwellings, associated parking and landscaping. The development comprises a pair of semi-detached 4 bedroom dwellings to be situated where the bungalow presently sits.
- 2.3 The pair of semi-detached properties would each measure 6.5m wide (a total width of 12.9m), 17m deep x 5.8m to eaves level. The ridge height would be 8.45m in height. Internally, each property would comprise a living room, family

room, kitchen diner, utility and a w/c to the ground floor and four bedrooms and a bathroom at first floor level.

- 2.4 The proposed layout provides for 2 no. allocated parking spaces located to the front of each dwelling and a private rear garden totalling 170m<sup>2</sup>.

### **3. RELEVANT HISTORY**

- 3.1 None.

### **4. REPRESENTATIONS**

- 4.1 **Neighbours: Five (5)** letters of representation have been received objecting to the application for the following reasons:

- Concerns as to how it will affect parking in the street and that there needs to be enough of street parking for at least 4 cars.
- The possibility of more cars will make the drive opposite inaccessible.
- The disturbance caused by the demolition and rebuilding.
- The proposal is near a dangerous corner, where there have been many accidents, especially in icy weather.
- There will potentially be at least double the number of cars at the site. This increase in vehicles on the drive and roadway will be a danger to a popular school route.
- The external appearance will differ from other properties around the site and the proposal is out of character and far too cramped.
- The size of the new buildings are not appropriate. The original property is a double fronted bay window 2/3 bedroom bungalow. The proposed construction will turn the site into modern two units containing 8 bedrooms.
- At present an eye level roof sloping on all 4 sides will be replaced by a solid 2 storey wall along the length of the proposed property which is longer than the existing single storey bungalow.
- Loss of light and privacy as the building will overshadow the south side of the adjoining property and part of the garden, including loss of light from the south facing hallway and cloakroom.
- The proposal is a development to make money rather than enhance the neighbourhood.

### **5. CONSULTATIONS**

- 5.1 **Environmental Health:** No objection

- 5.2 **Sustainable Transport:** No objection

- 5.3 The applicant is proposing changes to pedestrian access arrangements onto the adopted (public) highway and for this development this is deemed acceptable.

- 5.4 Sustainable Transport requests that it is about installing dropped kerbs with paving and tactile paving if appropriate at the junction of and across Dale Drive with Carden Avenue. This is to improve access to and from the site to the



various land uses in the vicinity of the site, for example education, employment, shops, postal services, leisure, medical, other dwellings in the wider community and transport in general and at least the community south west of Carden Avenue via the pedestrian crossing point across Carden Avenue that already has dropped kerbs, islands and ramp up and across the verge in particular that we know of at this point in time.

5.5 *Cycle Parking*

SPD14 states that a minimum of 1 cycle parking space is required for every residential unit with up to 2 beds and 2 for 3 plus beds and 1 space per 3 units for visitors after 4 units. For this development of 2 residential units with 4 beds the minimum cycle parking standard is 4 cycle parking spaces in total (4 for residential units and 0 visitor spaces). The applicant does not appear to have offered to install any cycle parking spaces in their supporting evidence therefore cycle parking is requested by condition.

5.6 *Disabled Parking*

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

5.7 *Servicing & Deliveries (including goods & people pick up / drop off)*

The applicant is not proposing any significant alteration to their current servicing and delivery arrangements to this site and for this development this is deemed acceptable.

5.8 *Vehicular Access*

The applicant is proposing changes to the existing vehicle access arrangements onto the adopted (public) highway and for this development this is deemed acceptable. Therefore it is requested that the New/extended crossover condition and informative be attached to any permission granted. It is also noted that where the applicant proposes to install the vehicle crossover there is an existing gully and as part of the new crossover works the applicant might also have to pay for this to be moved up the hill to reduce the risk of the crossover and site being flooded, the gully being damaged and to minimise the inconvenience to the occupants of the site when the gully is cleaned and maintained.

5.9 *Car Parking*

SPD14 states that the maximum car parking standard for 3 plus bedroom dwellings within the Outer Area is 1 space per dwelling plus 1 space per 2 dwellings for visitors. The applicant is proposing 4 car parking spaces for each 4 bedroom property within the Outer Area. For this development of 2 residential units the maximum car parking standard is 3 spaces (1 per unit and 1 visitor space).

- 5.10 Therefore the proposed level of car parking (four spaces) is not in line with the maximum standards however this is a distributor road into an estate that the Highway Authority for accessibility reasons wishes to minimise the need for on-street parking therefore 4 car parking spaces is deemed acceptable in this case.
- 5.11 *Trip Generation – Vehicles and Highway Impact*  
There is not forecast to be a significant increase in vehicle trip generation as a result of these proposals therefore any impact on carriageways will be minimal and within their capacity so the application is deemed acceptable and developer contributions for carriageway related improvements will not be sought.
- 5.12 *Trip Generation – Pedestrians and Developer Obligation (Grampian Condition)*  
It is likely that the increase in dwellings will also result in an increase in pedestrian and mobility and visually impaired trip generation. In order to ensure that the proposed development provides for the transport demand it generates and the needs of pedestrians and the mobility and visually impaired, the following developer obligation is requested by way of a Developer Contribution (Grampian Condition) and a Developer Contribution (Grampian Condition) Informative in accordance with policies TR7, TR11 and TR12 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
- 5.13 Pedestrian crossing improvements (dropped kerbs with paving and tactile paving if appropriate) are requested at the junction of and across Dale Drive with Carden Avenue. This is to improve access to and from the site to the various land uses in the vicinity of the site, for example education, employment, shops, postal services, leisure, medical, other dwellings in the wider community and transport in general and at least the community south west of Carden Avenue via the pedestrian crossing point across Carden Avenue that already has dropped kerbs, islands and ramp up and across the verge in particular that we know of at this point in time.

## **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);
  - The East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

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

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP12 Urban design
- CP13 Public streets and spaces
- CP14 Housing density
- CP18 Healthy city
- CP19 Housing mix

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

- TR7 Safe Development
- TR12 Helping the independent movement of children
- TR14 Cycle access and parking
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- QD5 Design - street frontages
- QD15 Landscape design
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes

#### Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD11 Nature Conservation & Development
- SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the principle of the development, the visual impact of the development to the wider street scene, the standard of accommodation provided and any potential impact to the amenities of neighbouring properties, in addition to transport and sustainability issues.

### **8.2 Principle of Development:**

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

respect. The five year housing land supply position will be updated on an annual basis.

- 8.3 The application site occupies that of No. 9 Sunnydale Avenue and as such is in residential use. The residential re-development of an existing residential site is acceptable in principle. However, the specific impacts of such proposals must however be carefully considered as to whether the development is appropriate and whether any material harm would be caused.
- 8.4 Chapters 12 (Urban Design), 14 (Housing density) and 19 (Housing mix) of the City Plan set out aims to secure a high standard of design and development which pays respects to site constraints and the character of the area surrounding the site.
- 8.5 Applications for new housing development need to be considered against paragraphs 14 and 49 of the NPPF. These paragraphs set out a general presumption in favour of sustainable development unless any adverse impacts of development would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The merits of the proposal are considered below.
- 8.6 **Design and Appearance:**  
While the surrounding streets have fairly uniform plot sizes and design appearances, Sunnydale Avenue has a more varied form and design character with bungalows, chalets bungalows and two storey semi-detached and detached properties with differing design palettes. No. 9 Sunnydale Avenue has one of the larger plots along the bottom half of Sunnydale Avenue with a width of over 14m and a depth of around 46m. This plot is similar if not larger than adjacent plots with pairs of semi-detached dwellings on them.
- 8.7 Therefore, it is considered that the application plot would not appear out of character within the wider context and pattern of development in the immediate area. The proposed dwellings would not appear overly cramped by reason of its plot coverage in relation to its surroundings.
- 8.8 The design of the semi-detached dwellings follows a contemporary and modern approach with multi-stock facing brick at ground floor and the first floor finished in an off-white render. This part of Sunnydale Avenue has a range of housing types with varying designs and use of differing materials. The proposed contemporary style would add to this existing mix and would complement the existing vernacular.
- 8.9 Overall the proposal is considered to have an acceptable impact on the appearance and character of the site and the wider surrounding area and is in accordance with development plan policies.
- 8.10 **Impact on Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent

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

- 8.11 The proposed development would increase the activity associated with the site; a detached bungalow replaced with two large dwellings would lead to increased comings and goings. Private vehicles owned by residents and visitors could be parked on the road.
- 8.12 It is considered that the increased activity and parking which the proposed development could cause would not be likely to cause significant harm to neighbouring amenity. Such activity and parking is typical of a residential area, and whilst there may be some negative issues associated with on-street parking it does not appear that there is a particular problem in the locality which would warrant the refusal of the current application.
- 8.13 While the two-storey properties would have a limited impact on overlooking and the perception of overlooking from the existing situation, this is not considered detrimental or one that would warrant a reason for refusal. The rear windows at first floor level serve two bedrooms for each property. While there would be oblique views into the rear gardens of neighbouring properties, this impact is considered not to be detrimental to an extent, which would warrant the refusal of planning permission. The side windows are shown on the plans as obscurely glazed. It is considered that this sufficiently mitigates any overlooking and the perception of overlooking in this instance.
- 8.14 Nor is it considered that the proposal would have a detrimental impact on sunlight/daylight or appear overbearing to 7 and 11 Sunnydale Avenue, which are either side of the application site.
- 8.15 It is acknowledged that the proposal would introduce significantly greater bulk close to the boundary with number 7 Sunnydale Avenue and that this property is sited significantly lower than the application site due to the steepness of Sunnydale Avenue. However, No. 7 has recently built a 4.5m deep, two storey rear extension and all of the windows on its northern elevation serve non-habitable rooms. The two-storey element of this proposal only extends approximately 1m beyond the existing extension. As such, it is considered that the proposal would not have an overbearing impact on No. 7 Sunnydale Avenue.
- 8.16 The proposed dwelling nearest to Number 11 Sunnydale Avenue would be sited almost 3m lower, which helps limit the impact of the proposed scheme. An important guideline when assessing the acceptability of proposed extensions is whether the development would cut a line drawn at 45 degrees (both horizontally and vertically) drawn from the mid-point on the nearest ground floor window of a habitable room on a neighbouring residential property. While the proposal would result in some loss of sunlight/daylight to Number 11, it would impact on non-habitable rooms (w/c and hallway) and a relatively modest section of the garden.

8.17 Therefore, the proposed development scheme would have an acceptable impact on the residential amenity currently enjoyed by the occupiers of the neighbouring properties.

**8.18 Sustainable Transport:**

City Plan Part One policy CP9 sets out the Council's approach to sustainable transport and seeks, generally to further the use of sustainable forms of transport to reduce the impact of traffic and congestion and in the interests of health to increase physical activity.

8.19 The comments from the Highway Authority are noted, in that there is no objection to the development subject to conditions in regard to car parking and cycle storage, which are considered reasonable and necessary as well as contributions to drop kerbs and to enhance the crossover at Dale Drive/Carden Avenue. As such, there are no objections raised on transport grounds.

**8.20 Standard of Accommodation:**

The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the dwelling is achievable therefore in the event permission is granted conditions can be attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

8.21 The dwellings would have a floor area of approximately 150m<sup>2</sup>. The Nationally described space standards recommend that a four bed dwelling spaced across two storeys should be a minimum size of 106m<sup>2</sup>.

8.22 Policy HO5 requires the provision of private outdoor amenity space for residential development. Due to the size of the plot, adequate amenity space would be provided to meet the requirements of policy HO5.

**8.23 Sustainability:**

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

**8.24 Other Considerations:**

No detailed landscaping plan has been submitted with the application. However, it is considered that this information can be secured by a suitably worded condition.

## **9 CONCLUSION**

9.1 The proposed development would cause no undue loss of light or privacy to adjacent occupiers, would be of an appropriate design and materials to ensure that it would integrate satisfactorily with the wider area. The units would achieve acceptable levels of living conditions for the future occupiers in relation to levels

of natural light and ventilation and amenity space. Subject to conditions, the proposal would have an acceptable impact on sustainability objectives and cause no detrimental impact on highway safety. Therefore, the proposal is considered to be in accordance with development plan policies.

**10. EQUALITIES**

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





**Information on Pre-application Presentations and Requests 2017**

| <b>Date</b>                          | <b>Address</b>  | <b>Ward</b>  | <b>Proposal</b>   | <b>Update</b>                          |
|--------------------------------------|---|--|---|--|
| TBC<br>21st May<br>2017<br>requested | St Aubyns School,<br>76 High Street,<br>Rottingdean                             | Rottingdean<br>Coastal                                     | Redevelopment of school campus<br>and part of school playing field.   |  |
| 11 <sup>th</sup> April<br>2017       | Former Lectern PH,<br>2-6 Pelham<br>Terrace, Brighton                           | Moulsecoomb<br>& Bevendean                                 | Redevelopment to provide<br>student housing scheme<br>comprising circa 228 studio rooms<br>together with ancillary support<br>accommodation at ground floor<br>and 2 commercial units (café and<br>retail) fronting Lewes Road. | Awaiting submission of<br>application. |
| 7th February<br>2017                 | 189 Kingsway,<br>Hove (former<br>Sackville Hotel)                               | Westbourne   | Construction of 8 storey<br>residential block.  | Application BH2017/01108<br>submitted. |
| 7 <sup>th</sup> February<br>2017     | 60-62 & 65<br>Gladstone Place,<br>Brighton                                      | Hanover & Elm<br>Grove                                     | Redevelopment to provide mixed,<br>student and residential scheme.  | Awaiting submission of<br>application. |
| 10 <sup>th</sup> January<br>2017     | West Blatchington<br>Primary School,<br>Hangleton Way,<br>Hove                  | Hangleton &<br>Knoll                                       | Redevelopment to provide new<br>secondary school and junior<br>school.  | Awaiting submission of<br>application. |
| 13 <sup>th</sup><br>December<br>2016 | Preston<br>Barracks/Mithras<br>House/Watts Car<br>Park, Lewes Road,<br>Brighton | Hollingdean &<br>Stanmer and<br>Moulsecoomb<br>& Bevendean | Mixed use development<br>comprising research laboratory,<br>student accommodation,<br>University teaching facilities,<br>residential, retail and parking.   | Application BH2017/00492<br>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.**

|                                 |   |                         |   |  |
|---------------------------------|---|-------------------------|---|--|
| 11 <sup>th</sup> 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.<br><br>Southern part of site – conversion into a single or a series of trade counter and/or builders merchants. | Application BH2017/01280 submitted currently invalid.                    |
| 13 <sup>th</sup> September 2016 | Life Science Building, Sussex University                              | Hollingdean & Stanmer   | 17,000sqm teaching space and café.  | Application BH2016/05810 minded to grant at Planning Committee 08/02/17. |
| 13 <sup>th</sup> 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 <sup>nd</sup> August 2016     | Medina House, 9 Kings Esplanade, Hove                                 | Central Hove            | Demolition of existing building and construction of a new dwelling.   | Application BH2016/05893 minded to grant at Planning Committee 08/03/17. |

**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.**

#### NEW APPEALS RECEIVED

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

BH2016/01794

11 Church Place, Brighton, BN2 5JN (7-11 Church Place Brighton )

Outline application with some matters reserved for the demolition of existing workshop and flat and erection of 6no three bedroom dwellings (C3) with associated car parking.

APPEAL IN PROGRESS

16/03/2017

Delegated

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

BH2016/02404

29 Bloomsbury Place, Brighton, BN2 1DB

Removal of windows from outrigger and rear of the main part of the house on lower ground and ground floor level. Replace lower ground floor living room window with double doors and other alterations to doors. Enclosure and conversion of the outdoor courtyard to create habitable space through the replacement of timber decking with an asphalt flat roof. Internal alterations to layout of dwelling. (Retrospective)

APPEAL IN PROGRESS

23/03/2017

Delegated

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

BH2016/05784

70 St Georges Road Brighton BN2 1EF

Erection of single storey rear extension, formation of balustraded roof terrace over first floor flat roof and revised fenestration.

APPEAL IN PROGRESS

27/03/2017

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****GOLDSMID**

BH2016/05621

44 Old Shoreham Road Hove BN3 6GF

|                                   |  |
|-----------------------------------|--|
| <u>DEVELOPMENT DESCRIPTION</u>    | Erection of two storey side extension linking dwelling to existing garage and creation of additional storey on garage with associated roof extensions.   |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS   |
| <u>APPEAL RECEIVED DATE</u>       | 22/03/2017   |
| <u>APPLICATION DECISION LEVEL</u> | Delegated  |
| <b><u>WARD</u></b>                | <b>HANOVER AND ELM GROVE</b>   |
| <u>APPEALAPPNUMBER</u>            | BH2015/01736   |
| <u>ADDRESS</u>                    | 187 Lewes Road, Brighton, BN2 3LD (186 - 187 Lewes Road Brighton)  |
| <u>DEVELOPMENT DESCRIPTION</u>    | Demolition of existing building and erection of four storey building with 2no commercial units comprising retail, financial and professional services or take-away (A1/A2/A5) on ground floor and 8no two bedroom flats on upper floors with associated works. |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS   |
| <u>APPEAL RECEIVED DATE</u>       | 16/03/2017   |
| <u>APPLICATION DECISION LEVEL</u> | Delegated  |
| <b><u>WARD</u></b>                | <b>HANOVER AND ELM GROVE</b>   |
| <u>APPEALAPPNUMBER</u>            | BH2016/02907   |
| <u>ADDRESS</u>                    | 26 May Road, Brighton, BN2 3EB   |
| <u>DEVELOPMENT DESCRIPTION</u>    | Change of use from five bedroom single dwelling (C3) to seven bedroom large house in multiple occupation (Sui Generis). (Retrospective)  |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS   |
| <u>APPEAL RECEIVED DATE</u>       | 10/03/2017   |
| <u>APPLICATION DECISION LEVEL</u> | Delegated  |
| <b><u>WARD</u></b>                | <b>HOLLINGDEAN AND STANMER</b>   |
| <u>APPEALAPPNUMBER</u>            | BH2016/05536   |
| <u>ADDRESS</u>                    | 63 Park Road Brighton BN1 9AA  |
| <u>DEVELOPMENT DESCRIPTION</u>    | Change of use from five bedroom small house in multiple occupation (C4) to nine bedroom house in multiple occupation (Sui Generis). (Retrospective)  |
| <u>APPEAL STATUS</u>              | APPEAL IN PROGRESS   |
| <u>APPEAL RECEIVED DATE</u>       | 11/04/2017   |
| <u>APPLICATION DECISION LEVEL</u> | Delegated  |
| <b><u>WARD</u></b>                | <b>HOLLINGDEAN AND STANMER</b>   |
| <u>APPEALAPPNUMBER</u>            | BH2016/05726   |
| <u>ADDRESS</u>                    | First Floor Flat 82 Stanmer Park Road Brighton BN1 7JH   |

DEVELOPMENT DESCRIPTION Roof alterations incorporating rear dormer and insertion of 2no front rooflights.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 15/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **HOVE PARK**  
APPEALAPPNUMBER BH2017/00221  
ADDRESS 23 Tredcroft Road Hove BN3 6UH  
DEVELOPMENT DESCRIPTION Erection of first floor rear extension with associated alterations.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/04/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **MOULSECOOMB AND BEVENDEAN**  
APPEALAPPNUMBER BH2016/02768  
ADDRESS 25 Wheatfield Way, Brighton, BN2 4RQ  
DEVELOPMENT DESCRIPTION Change of use from four bedroom small house in multiple occupation (C4) to nine bedroom house in multiple occupation (Sui Generis). (Retrospective)  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 13/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **MOULSECOOMB AND BEVENDEAN**  
APPEALAPPNUMBER BH2016/05089  
ADDRESS 84 Ashurst Road Brighton BN2 4PH  
DEVELOPMENT DESCRIPTION Change of use from four bedroom single dwelling (C3) to four bedroom small house in multiple occupation (C4).  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 16/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **MOULSECOOMB AND BEVENDEAN**  
APPEALAPPNUMBER  
ADDRESS 19 Riley Road Brighton BN2 4AG  
DEVELOPMENT DESCRIPTION Appeal against  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 10/04/2017  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **NORTH PORTSLADE**  
APPEALAPPNUMBER BH2016/05349  
ADDRESS 14 Foxhunters Road Portslade BN41 2RY

DEVELOPMENT DESCRIPTION Conversion of existing 5no bedroom dwelling(C3) into two 3no bedroom dwellings(C3).  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/04/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **PATCHAM**  
APPEALAPPNUMBER BH2016/05632  
ADDRESS 246 Mackie Avenue Brighton BN1 8SD  
DEVELOPMENT DESCRIPTION Erection of side extension, hip to gable roof extension, enlargement of existing rear dormer, 2no front rooflights and other associated alterations.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 27/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **PRESTON PARK**  
APPEALAPPNUMBER BH2016/05209  
ADDRESS 91 Stanford Avenue Brighton BN1 6FA  
DEVELOPMENT DESCRIPTION Alteration & conversion of detached garage to form a new dwelling with off road parking.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 23/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **QUEEN'S PARK**  
APPEALAPPNUMBER BH2016/05355  
ADDRESS 24 Old Steine Brighton BN1 1EL  
DEVELOPMENT DESCRIPTION Conversion of basement to form studio flat incorporating revised access.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 10/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **QUEEN'S PARK**  
APPEALAPPNUMBER BH2016/05421  
ADDRESS Brighton Dental Clinic St James Mansions 16 - 18 Old Steine Brighton BN1 1EN  
DEVELOPMENT DESCRIPTION Installation of 2no air conditioning units to rear elevation. (Part retrospective)  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 15/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **ROTTINGDEAN COASTAL**  
APPEALAPPNUMBER BH2016/01142

ADDRESS Land Adjoining 90 Greenbank Avenue Saltdean Brighton  
DEVELOPMENT DESCRIPTION Outline application with all matters reserved for the erection of 2no detached residential dwellings (C3).  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 09/03/2017  
APPLICATION DECISION LEVEL Delegated

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WARD **ROTTINGDEAN COASTAL**  
APPEALAPPNUMBER BH2016/01733  
ADDRESS ARUNDEL COURT, Arundel Road, Brighton, BN2 5TX  
DEVELOPMENT DESCRIPTION Roof alterations to form 2no one bedroom flats (C3).  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 15/03/2017  
APPLICATION DECISION LEVEL Delegated

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WARD **ROTTINGDEAN COASTAL**  
APPEALAPPNUMBER BH2016/05109  
ADDRESS 30 Grand Crescent Rottingdean Brighton BN2 7GL  
DEVELOPMENT DESCRIPTION Loft conversion with two dormers to side elevation & glazed gable end to rear elevation. Garage conversion and installation of byfold doors to the south facing ground floor elevation.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 28/03/2017  
APPLICATION DECISION LEVEL Delegated

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WARD **ROTTINGDEAN COASTAL**  
APPEALAPPNUMBER BH2016/05334  
ADDRESS 35 Lenham Avenue Saltdean Brighton BN2 8AG  
DEVELOPMENT DESCRIPTION Alterations to existing bungalow including raising of roof ridge height to facilitate the erection of additional storey with revised fenestration and associated works.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 22/03/2017  
APPLICATION DECISION LEVEL Delegated

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WARD **SOUTH PORTSLADE**  
APPEALAPPNUMBER BH2015/04680  
ADDRESS 1 Wellington Road, Portslade, BN41 1DN  
DEVELOPMENT DESCRIPTION Application for Approval of Details Reserved by Conditions 8, 11,12 and 13 of application BH2015/04252.

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/04/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **SOUTH PORTSLADE**  
APPEALAPPNUMBER BH2016/00461  
ADDRESS 1 Wellington Road, Portslade, BN41 1DN  
DEVELOPMENT DESCRIPTION Conversion of ground floor retail unit (A1) to 2no one bedroom flats (C3) including alterations to fenestration.

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/04/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **SOUTH PORTSLADE**  
APPEALAPPNUMBER BH2016/01784  
ADDRESS 113 Trafalgar Road, Portslade, BN41 1GU  
(113-115 Trafalgar Road Portslade )  
DEVELOPMENT DESCRIPTION Outline application with some matters reserved for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping.

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 16/03/2017  
APPLICATION DECISION LEVEL Planning (Applications) Committee

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**WARD** **ST. PETER'S AND NORTH LAINE**  
APPEALAPPNUMBER BH2016/00082  
ADDRESS 5 Queen Square, Brighton, BN1 3FD  
DEVELOPMENT DESCRIPTION Creation of additional floor with external terrace and glass balustrading to front.

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 13/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WESTBOURNE**  
APPEALAPPNUMBER BH2016/02242  
ADDRESS DEREK HOUSE, 45 New Church Road, Hove, BN3 4BF  
DEVELOPMENT DESCRIPTION Replacement of existing brick and metal balconies with glazed balconies.

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 10/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WISH**  
APPEALAPPNUMBER BH2016/00582



ADDRESS 63 Berriedale Avenue, Hove, BN3 4JG  
DEVELOPMENT DESCRIPTION Erection of single storey rear extension.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 22/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WISH**  
APPEALAPPNUMBER BH2016/05487  
ADDRESS 4A Mansfield Road Hove BN3 5NN  
DEVELOPMENT DESCRIPTION Erection of single storey rear extension incorporating roof extension with increased ridge height, rooflights, windows to front and rear and associated works.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 04/04/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WITHDEAN**  
APPEALAPPNUMBER BH2016/01808  
ADDRESS 1 Surrenden Crescent, Brighton, BN1 6WE  
DEVELOPMENT DESCRIPTION Demolition of existing dwelling and erection of 1no three bedroom dwelling and 2no five bedroom dwellings (C3) with associated landscaping, parking, access, cycle and refuse storage.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 13/03/2017  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WITHDEAN**  
APPEALAPPNUMBER BH2016/05928  
ADDRESS 84 Wayland Avenue Brighton BN1 5JN  
DEVELOPMENT DESCRIPTION Erection of ground and first floor side extension with installation of rooflights. Enclosure of courtyard to form utility room and other associated alterations.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 04/04/2017  
APPLICATION DECISION LEVEL Delegated

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**Brighton & Hove  
City Council**

**INFORMATION ON HEARINGS / PUBLIC INQUIRIES**

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**This is a note of the current position regarding Planning Inquiries and Hearings**  
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|                          |   |
|--------------------------|---|
| Planning Application no: | 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:                    | 13 <sup>th</sup> to 16 <sup>th</sup> June 2017, Brighton Town Hall  |
| 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:                | Appeal Withdrawn  |
| Type of Appeal           | Public Inquiry against Non-Determination  |
| Date:                    | -   |
| Site Location:           | 41a Cromwell Road, Hove   |



**APPEAL DECISIONS**

Page

**A – 18 COLBOURNE AVENUE, BRIGHTON – MOULSECOOMB & BEVENDEAN**

Application BH2016/02705 – Appeal against refusal to grant planning permission for change of use of C4 HMO to Sui Generis large HMO.

**APPEAL ALLOWED** (delegated decision)

**B – 9 HIGHVIEW WAY, BRIGHTON – PATCHAM**

Application BH2016/02567 – Appeal against a refusal to grant a certificate of lawful use or development (LDC) for a ‘Hip to gable roof extension and construction of dormer to side roof slope. Installation of roof lights to front and side roof slopes’. **APPEAL ALLOWED** (delegated decision)

**C – 33 HILLSIDE, BRIGHTON – MOULSECOOMB & BEVENDEAN**

Application BH2016/05050 – Appeal against a refusal to grant a certificate of lawful use or development (LDC) for a proposed hip to gable roof extension, rear dormer, 2 No roof lights and a single storey rear extension. **APPEAL ALLOWED** (delegated decision)

**D – 160 NEW CHURCH ROAD, HOVE – WISH**

Application BH2016/01469 – Appeal against a refusal to grant a certificate of lawful use or development (LDC) for retention of accommodation for occupation by visiting family members or B&B guests.

**APPEAL DISMISSED** (delegated decision)

**E – 29 SUSSEX TERRACE, BRIGHTON – QUEEN’S PARK**

Application BH2016/02955 – Appeal against refusal to grant planning permission for the erection of a rear conservatory.

**APPEAL DISMISSED** (delegated decision)

**F – 14 MILL LANE, PORTSLADE, BRIGHTON – SOUTH PORTSLADE**

Application BH2016/01923 – Appeal against refusal to grant a certificate of lawful use or development (LDC) for ‘Proposal to site twin unit mobile home in the rear garden at 14 Mill Lane, Portslade, Brighton BN41 2DE (size of proposed mobile home 6600mm x 13600mm)’. **APPEAL ALLOWED** (delegated decision)

#### **G – 16 WELBECK AVENUE, HOVE – WISH**

Application BH2016/05110 – Appeal against refusal to grant planning permission to replace garage with the erection of a two-storey extension.

**APPEAL DISMISSED** (delegated decision)

#### **H – 136 LONGHILL ROAD, BRIGHTON – ROTTINGDEAN COASTAL**

Application BH2016/04462 – Appeal against refusal to grant planning permission for a roof conversion of a detached garage with internal alterations. **APPEAL ALLOWED** (delegated decision)

#### **I – MAISONETTE 42 DYKE ROAD DRIVE, BRIGHTON – PRESTON PARK**

Application BH2015/04087 – Appeal against refusal to grant planning permission for a loft conversion incorporating rear dormer and front rooflights. **APPEAL DISMISSED** (delegated decision)

#### **J – 148 VALLEY DRIVE, BRIGHTON – WITHDEAN**

Application BH2016/02066 – Appeal against refusal to grant planning permission for the erection of a new dwelling on land to the rear of 148 Valley Drive.

**APPEAL DISMISSED** (delegated decision)

#### **K – 1 VARNDEAN HOLT, BRIGHTON – WITHDEAN**

Application BH2016/05165 – Appeal against refusal to grant planning permission for the conversion of loft space with dormers to front and rear, roof light to front and rear and window to side. **APPEAL ALLOWED** (delegated decision)

#### **L – 7 BERRIEDALE AVENUE, HOVE – WISH**

Application BH2016/02224 – Appeal against a refusal to grant planning permission for a first floor extension over existing garage. **APPEAL ALLOWED** (delegated decision)

**M – 86 DOWNLAND ROAD, BRIGHTON – WOODINGDEAN**

Application BH2016/05638 – Appeal against refusal to grant planning permission for rooms in roof with side dormers and front and rear gable windows. **APPEAL DISMISSED** (delegated decision)

**N – 70 ST GEORGES ROAD, BRIGHTON – EAST BRIGHTON**

Application BH2016/05784 – Appeal against refusal to grant planning permission for a rear lower ground floor single storey extension, rear roof terrace, alterations to fenestration to front elevation. **APPEAL ALLOWED** (delegated decision)

**O – 139 LEWES ROAD, BRIGHTON – HANOVER & ELM GROVE**

Application BH2016/05800 – Appeal against refusal to grant planning permission for the change of use of C3 dwelling house to C4 small house in multiple occupation. **APPEAL DISMISSED** (delegated decision)

**P – LONGLEY INDUSTRIAL ESTATE, NEW ENGLAND STREET, BRIGHTON – ST PETER'S & NORTH LAINE**

Application BH2015/04474 – Appeal against a refusal to grant planning permission for the change of use from light industrial and warehouse trade counter units (B1c and B8) to offices (B1a) together with external building improvements. **APPEAL ALLOWED** (Committee decision)





## Appeal Decision

Site visit made on 28 February 2017

by **Nicola Davies BA DipTP MRTPI**

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

Decision date: 23 March 2017

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### **Appeal Ref: APP/Q1445/W/16/3162725 18 Colbourne Avenue, Brighton BN2 4GE**

- 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 Oliver Dorman of Rivers Birtwell against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/02705, dated 19 July 2016, was refused by notice dated 26 September 2016.
  - The development proposed is described as "change of use of C4 HMO to Sui Generis large HMO".
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for change of use of C4 House in Multiple Occupation (HMO) to Sui Generis large HMO at 18 Colbourne Avenue, Brighton BN2 4GE in accordance with the terms of the application, Ref BH2016/02705, dated 19 July 2016, subject to the following conditions: -
  - 1) The development hereby permitted shall be carried out in accordance with approved plan SG02 and shall retain those areas of communal space within the internal layout.
  - 2) The development hereby permitted shall only be occupied by a maximum of eight persons.
  - 3) Prior to the occupation of the Sui Generis House in Multiple Occupation development hereby permitted details of secure cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The secure cycle parking facilities shall be carried out in accordance with the approved details prior to the occupation of the Sui Generis House in Multiple Occupation development hereby permitted and shall thereafter be retained for cycle parking.

### **Main Issue**

2. The main issue is whether the proposed change of use would intensify the occupation of the property and imbalance the mix of the community in the area.
-

## Reasons

3. The appeal site is a mid-terraced, two-storey property with additional accommodation in the extended loft and ground floor addition to the rear. The property is located in a residential area north of Brighton city centre and is in close proximity to the two large universities in the City.
4. The appellant indicates that the property has been rented to groups of at least four unrelated tenants since 2010, pre-dating the Article 4 Direction that came into place in 2013. I accept that this claim has not been verified. However, the Council has accepted the description of the proposal provided by the applicant and has acknowledged the current use of the appeal property is as a C4 HMO in their statement. I have no reason to come to a different view.
5. A certificate of lawfulness for a retrospective single storey rear extension and loft conversion incorporating front rooflights and rear dormer has been approved in September (LPA ref BH2016/02667). The appellant has advised that the property has been rented to six tenants. The proposed development would change the use to a large HMO (Use Class Sui Generis) and would allow occupation by more than six unrelated individuals who would share a kitchen and bathrooms.
6. Policy CP21 of the Brighton and Hove City Plan deals with the issue of change of use to HMOs, including the change the use to a large Sui Generis HMO, as proposed here. This policy states that applications for the change of use to a Class C4 use, a mixed C3/C4 use or to a sui generis HMO use (more than six people sharing) will not be permitted where more than 10% of dwelling within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use. Policy CP21 has been reinforced by an Article 4 Direction, which requires such proposals to obtain planning permission. This applies to the appeal site. Both Policy CP21 and the Article 4 Direction are aimed at securing balanced communities and together their objective is to locate student housing in those areas of the city which are the most suitable places in terms of accessibility and impacts on the amenity of surrounding areas.
7. The Council has conducted a survey and found that of the 19 properties within a 50m radius of the appeal property, 26.3% of neighbouring properties are in HMO use within the radius area. This is not in dispute.
8. As noted above, the Council acknowledges that the current use of the appeal property is as a C4 HMO. It is concerned that the incremental intensification of use at the appeal site and others nearby through the changes of use from C4 to sui generis HMO adds to the cumulative harm of HMO over-concentration in this part of the City. The Council argues that it is this type of incremental intensification and over-concentration of HMOs in geographically focused area that has consequential impact upon the character and appearance of these areas. These changes include the increased activity by groups of unconnected adults, associated problems with different patterns of behaviour, noise and disturbance and greater pressure on parking and refuse collection, amongst other matters. Policy QD27 of the Local Plan also sets out criteria in which proposals must be assessed and these latter issues relate to this policy.
9. However, the appeal property has already been used for C4 HMO purposes. The development would not affect the range of housing types in the area, nor

the number of HMO's. It would increase the number of occupants within this particular HMO. Although the number of residents would increase from six to seven or eight, this would only be a marginal increase within the neighbourhood as a whole and any effects arising from one or two extra people living at No 18 are unlikely to be significant.

10. At the time of the site visit the property appeared managed with the front garden well maintained. There was no obvious difference between the standard of maintenance of the property and others in the area, whether HMOs or not.
11. For these reasons I conclude that the development would not significantly affect the mix or balance of the community in the area in compliance with Policy 21 of the City Plan, nor cause significant harm to the living conditions of nearby occupiers in accordance with Policy QD27 of the Local Plan. The latter seeks to prevent material nuisance and loss of amenity to adjacent residents.

### **Conditions**

12. The Council has suggested four conditions should the appeal be allowed. I have considered the planning conditions suggested by the Council in light of paragraph 206 of the National Planning Policy Framework and the advice in the Planning Practice Guidance. It is necessary to define the plans which have been approved in the interest of certainty. It is also necessary to restrict the occupancy of the building to no more than eight persons and retain communal space in order to ensure satisfactory living conditions for the occupiers. Finally, it is necessary to ensure secure cycle storage facilities are provided to encourage sustainable travel.
13. The Council considers that the removal of Class A to Class E of Schedule 2 Part 1 of the Town and Country (General Permitted development) Order 2015 permitted development rights would be appropriate. I refer to the advice in the Planning Practice Guidance which state that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. I do not consider there to be exceptional circumstances here.

### **Conclusions**

14. Having regard to the above the appeal should be allowed.

*Nicola Davies*

INSPECTOR



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## Appeal Decision

Site visit made on 13 March 2017

**by Diane Fleming BA (Hons) MRTPI**

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

**Decision date: 28 March 2017**

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**Appeal Ref: APP/Q1445/X/16/3160829**

**9 Highview Way, Brighton BN1 8WS**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Mark Tugwell against the decision of Brighton & Hove City Council.
  - The application, Ref BN2016/02567, dated 4 July 2016, was refused by notice dated 30 August 2016.
  - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is described as 'Hip to gable roof extension and construction of dormer to side roof slope. Installation of roof lights to front and side roof slopes'.
- 

### Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

### Procedural Matter

2. Section 192(2) of the Town and Country Planning Act 1990 (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. Applying the terms of Section 192(2) of the 1990 Act to the appeal proposal, the Council has determined the application against the provisions set out in Schedule 2, Part 1, Classes B and C of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO).

### Reasons

3. The appeal relates to a detached bungalow, with a hipped roof shape, that has been extended at the rear with a conservatory style addition. The appellant proposes to convert the loft area into a bedroom with an en-suite bathroom. A dormer extension would be erected to one side of the roof and roof lights would be inserted on the other side with one overlooking the front of the property. The rear part of the roof would be changed from a hipped shape to a largely gable shape and would have a 'feature' window made up from a pair of French windows opening onto a Juliette balcony flanked by glazing either side.
-

4. The principle point at issue is the Council's determination that the proposed 'feature' window, to be inserted within the new gable end of the roof, would not be similar in appearance to the existing fenestration of the dwelling. This is in respect of the proposed material to be used to construct the window and in terms of its shape.
5. The Council accepts that in all other respects the proposed development would accord with the limitations set out in Classes B and C of the GPDO and I see no reason to take a different view.
6. The appellant submits that the proposed 'feature' window would match the existing fenestration in terms of materials and that this was shown on the information submitted with the application. Furthermore, the overall shape of the window should not be a consideration.
7. At the site visit I saw that the windows on the front elevation, which serve principle rooms, were white and made from uPVC. Drawing number LDC02A, dated June 2016, was submitted with the application and is listed on the Council's decision notice as information taken into account when deciding the application. This drawing shows that the proposed 'feature' window is to be made from uPVC. As such, I consider the material for the proposed 'feature' window would match the existing windows in the dwelling and there would therefore be no breach of condition (a) within paragraph B.2. of Class B.
8. With regard to the shape of the 'feature' window, this has been designed to sit within part of the new gable end elevation. Condition (a) within paragraph B.2. requires only that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the dwelling. There is no reference to a requirement for the shape of any feature to be similar in appearance to existing features.
9. The Department for Communities and Local Government published 'Permitted development rights for householders, Technical Guidance' (TG) in April 2016 and this assists with the interpretation of the GPDO. It sets out (page 35) that condition (a) within paragraph B.2. is intended to ensure that loft conversions are sympathetic in their design when compared to the existing dwelling. The visual impacts of the materials used will be the most important consideration but it also states that window frames should be similar to those in the existing dwelling in terms of their colour and overall shape.
10. Whilst the proposed 'feature' window partially replicates the triangular shape of the gable end of the roof, the main element of it is the centrally positioned pair of French windows, which open inwards into the bedroom. I consider that these would be similar in shape to the ground floor French windows, which open into the conservatory and which also are flanked by glazing. Although there is a difference in shape between the rectangular flanking glazing of the ground floor windows and the proposed trapezium flanking glazing forming part of the 'feature window', the TG only refers to similarity in terms of the overall shape. Given my finding that the principle element in the proposed 'feature' window is the pair of French windows, I consider that the difference between the overall shape of the 'feature' window and the existing glazing in the dwelling would be marginal. The appeal proposal therefore accords with the limitations set out in Schedule 2, Part 1, Class B of the GPDO as well as Schedule 2, Part 1, Class C in respect of the proposed roof lights.

## **Conclusion**

11. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the development described as 'Hip to gable roof extension and construction of dormer to side roof slope. Installation of roof lights to front and side roof slopes' was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

*D Fleming*

INSPECTOR

## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 4 July 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development would accord with the requirements of Schedule 2, Part 1, Classes B and C of the Town and Country Planning (General Permitted Development)(England) Order 2015.

Signed *D Fleming*

Diane Fleming  
Inspector

Date 28 March 2017

Reference: APP/Q1445/X/16/3160829

### **First Schedule**

Hip to gable roof extension and construction of dormer to side roof slope.  
Installation of roof lights to front and side roof slopes

### **Second Schedule**

Land at 9 Highview Way, Brighton BN1 8WS



NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

## Plan

This is the plan referred to in the Lawful Development Certificate dated: 28 March 2017

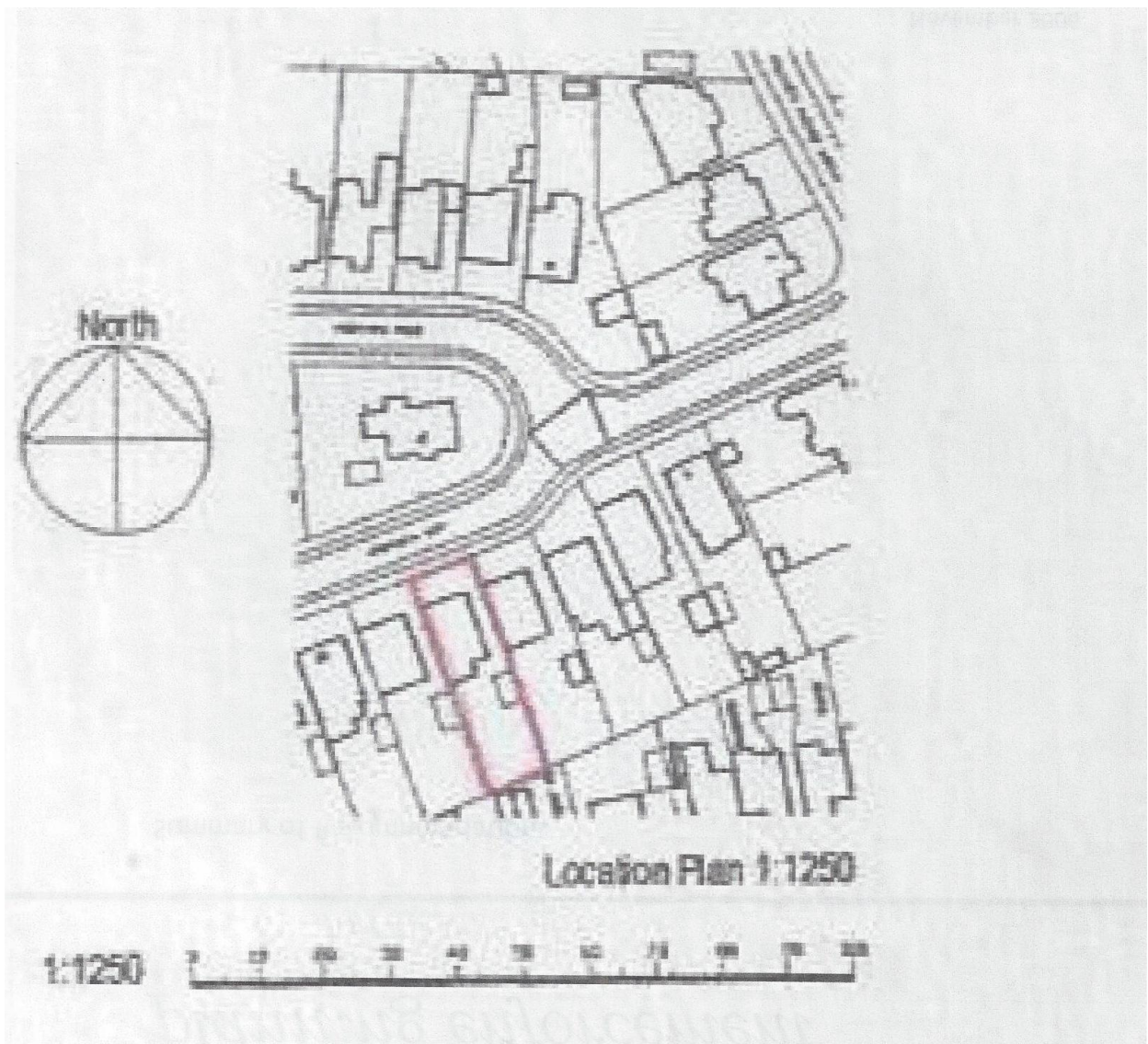
**by Diane Fleming BA (Hons) MRTPI**

**Land at:** 9 Highview Way, Brighton BN1 8WS

**Reference:** APP/Q1445/X/16/3160829

Scale: not to scale

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## Appeal Decision

Site visit made on 14 March 2017

by **Diane Fleming BA (Hons) MRTPI**

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

Decision date: 28 March 2017

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**Appeal Ref: APP/Q1445/X/16/3164675**  
**33 Hillside, Brighton BN2 4TF**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Oliver Dorman against the decision of Brighton & Hove City Council.
  - The application, Ref BH2016/05050, dated 19 August 2016, was refused by notice dated 24 November 2016.
  - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is a proposed hip to gable roof extension, rear dormer, 2 No roof lights and a single storey rear extension.
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### Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

### Procedural Matters

2. The description of development is taken from the Council's decision notice as it is not stated within the application form. The appellant appears to have no objection as he has used this description to complete his appeal form.
  3. The application sought is a certificate of lawfulness for a proposed development. The purpose of an application made under section 192 of the 1990 Act is to find out whether *future* (my emphasis) development, as described in the application form and shown on the drawings, would be lawful if instituted or begun at the time of the application. It is on this basis that I have determined whether the development shown on the appellant's drawings would have been lawful if it had been begun at the time of the application.
  4. However, it would appear from the appellant's submissions that this is misunderstood as at the site visit it was apparent that a single storey rear extension had been built as well as an extension in the roof space to facilitate a loft conversion. For the avoidance of doubt therefore, I would point out that the purpose of the application is not to find out whether these works carried out at the site are lawful. They would be dealt with under an application made in accordance with section 191, which deals with existing development. I would also point out that an LDC under section 192 is not the equivalent in law
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- of a planning permission and therefore the issue of planning merits is not relevant to this appeal.
5. Section 192(2) indicates that if the local planning authority are provided with information satisfying them that the use or operations *described* in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application.
  6. In this case the Council have refused the application on the grounds that what is shown on the drawings to describe the development amounts to not just operational development but that it is 'part and parcel' of a material change of use to a large house in multiple occupation (HMO). They therefore consider that the works would not fall within permitted development (PD) as set out in Schedule 2, Part 1, Classes A, B, C and G of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO).
  7. However, I am required to consider the application for development as *described* by the appellant as this is what he wishes to build and I am unable to change the basis of his application. The appeal is confined to the narrow remit of reviewing the Council's decision as to whether it was well-founded or not well-founded. I am also unable to dismiss the appeal on the basis of what might be, notwithstanding the Council's submissions on this point. This is because it is open to the Council to take action if there is a subsequent material change of use. In reaching my decision I have had regard to all of the information that was before the Council and that which has been submitted as part of the appeal.

## Reasons

8. The appeal relates to a two storey, semi-detached property. The appellant proposes to erect a single storey rear extension and extensions to the roof to provide additional living accommodation.
9. The Council advise that the site lies within an area the subject of an Article 4 Direction.<sup>1</sup> This removes PD rights to convert single dwelling houses within use class C3 to small HMOs falling within use class C4.<sup>2</sup> The Council have queried whether the lawful use of the building is within C4 use or whether it remains as a single dwelling house. This is because at the time of the application the building was gutted and they have no record of a grant of planning permission for C4 use and no record of a HMO licence.
10. The appellant submits that the building has been used as a small HMO for some years and produces copies of agreements made between the former owner and the university<sup>3</sup> to demonstrate annual use of the property by students.
11. In reaching my decision it seems to me that both uses benefit from the PD rights set out in the GPDO. This is because the PD rights to build an extension or a rear dormer set out in Part 1 of the GPDO apply to 'dwelling houses'. A 'dwelling house' is partially defined within the GPDO article 2 as, except in Part 3 of Schedule 2, not including a building containing one or more flats or a flat contained within a building. Use class C4 is defined as being the 'use of a

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<sup>1</sup> The Direction was made on 5 April 2013

<sup>2</sup> The Town and Country Planning (Use Classes) Order 1987

<sup>3</sup> These are dated 30 January 2012, 2 May 2013 and 23 April 2014

dwelling house...' and it follows that the GPDO rights under Part 1 apply to a C4 use so long as the unit in C4 use is not a flat or in a building containing one or more flats. Consequently it is lawful to undertake works relying upon Part 1 of the GPDO prior to the conversion of a property to a C4 use as well as it being lawful to carry out works in accordance with Part 1 of the GPDO once a property is in C4 use.

12. The principle point at issue though is the Council's determination that the works are intended to enable a material change of use to a large HMO. The Council accepts that in all other respects the proposed development would accord with the limitations set out in Classes A, B, C and G of the GPDO and I see no reason to take a different view. As I have already dealt with the Council's principle point in my procedural matters, I therefore conclude that the appeal proposal accords with the limitations set out in Schedule 2, Part 1, Classes A, B, C and G of the GPDO.

### **Conclusion**

13. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a proposed hip to gable roof extension, rear dormer, 2 No roof lights and a single storey rear extension was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

*D Fleming*

INSPECTOR

## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 19 August 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development would accord with the requirements of Schedule 2, Part 1, Classes A, B, C and G of the Town and Country Planning (General Permitted Development)(England) Order 2015.

Signed *D Fleming*

Diane Fleming  
Inspector

Date 28 March 2017

Reference: APP/Q1445/X/16/3164675

### ***First Schedule***

A proposed hip to gable roof extension, rear dormer, 2 No roof lights and a single storey rear extension

### ***Second Schedule***

Land at 33 Hillside, Brighton BN2 4TF

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

## Plan

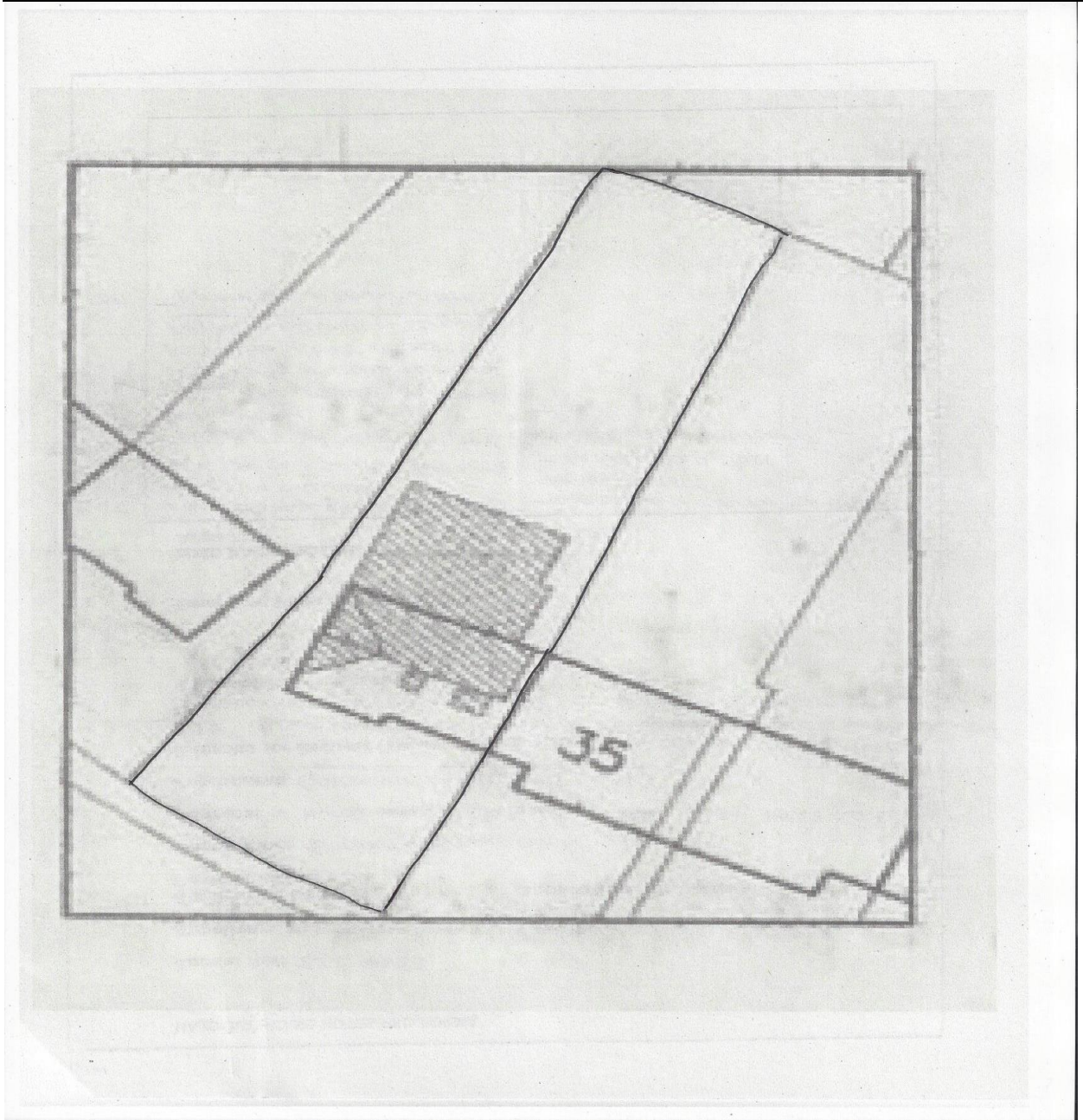
This is the plan referred to in the Lawful Development Certificate dated: 28 March 2017

**by Diane Fleming BA (Hons) MRTPI**

**Land at:** 33 Hillside, Brighton BN2 4TF

**Reference:** APP/Q1445/X/16/3164675

Scale: Not to scale





## Appeal Decision

**by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA**

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

**Decision date: 31 March 2017**

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**Appeal Ref: APP/Q1445/X/16/3159422**

**160 New Church Road, Hove BN3 4JE**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mrs Mervat Emmanuel against the decision of Brighton and Hove City Council.
  - The application Ref BH2016/01469, dated 28 April 2016, was refused by notice dated 18 August 2016.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is retention of accommodation for occupation by visiting family members or B&B guests.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The application form clearly states that the proposed use is considered to fall within the Class C3 dwellinghouse use. It is explained in a covering letter that the element of bed and breakfast accommodation proposed is intended to be part and parcel of the C3 residential use of the main dwelling.
3. The Council substituted its own description of the proposed use as "proposed use of the existing outbuilding as residential (C3) and bed and breakfast accommodation (C1)". Whilst it has been suggested that if the description of use in the application does not properly describe the nature of the use, the decision-maker should substitute an accurate description, it is established that a local planning authority has no power unilaterally to modify the description of the proposed use or development in a s192 application.
4. Accordingly I have reinstated the proposed use as described in the rubric of the covering letter with the application. The form, taken with the covering letter to which it refers, complies with advice in Planning Practice Guidance that the application must be accompanied by sufficient information for a local planning authority to decide the application which will need to "describe precisely what is being applied for (not simply the use class)".<sup>1</sup>

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<sup>1</sup> Paragraph: 005 Reference ID: 17c-005-20140306

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## **Main Issue**

5. The main issue to consider is whether, irrespective of the wording of the reason for refusal, the Council's decision to refuse the LDC was well-founded, having regard to the proposal at the date of the application.

## **Reasons**

6. By s55(2)(d) of the 1990 Act the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse shall not be taken to involve development on the land. The Council considered the proposed use of the outbuilding for residential (C3) and bed and breakfast (C1) use would be a material change of use by forming a separate planning unit from the main dwelling and not lawful under s55(2).
7. 160 New Church Road is a detached dwelling sited at a corner of New Church Road and Saxon Road. The outbuilding is at the rear of the site with a main door facing a gate giving access onto Saxon Road.

### *Planning history and its implications for current use of the outbuilding*

8. A certificate of lawfulness of proposed development (2008 LDC) was obtained on 26 September 2008 for "proposed external and internal alterations to existing garage to create a granny annexe". Subsequent to the 2008 LDC, a planning permission Ref BH2014/02223, was granted on 26 August 2014 (2014 permission) for the erection of a single storey extension and associated alterations to fenestration to existing detached garage.
9. The appellant accepts that any proposed use of the annexe as residential accommodation separate from the main dwelling at the property, cannot be achieved through a certificate of lawful proposed use. That would represent a material change of use for which planning permission would be needed and the appellant states he is not relying on an historic established use. However he does rely on the planning history, including the approach taken by the Council to demonstrate that there is no restriction on the outbuilding's use for a commercial or business use, whilst remaining essentially as a C3 dwelling use.
10. The external alterations to the outbuilding did not comply with the drawings submitted with the LDC application. A larger front bay was constructed and approved in accordance with the 2014 permission, which permission had however approved a different layout, comprising a study, games room, laundry room and shower room. These uses are incidental to the enjoyment of the dwelling but subsequent inspection by the Council revealed that it is laid out for primary residential use as a living/kitchen room, bedroom and shower room.
11. Condition 4 of the 2014 permission stated: "*The outbuilding hereby permitted shall be used solely for purposes incidental to the enjoyment of the dwelling house as such and shall at no time be occupied as a separate unit of accommodation or for commercial or business use*". However the permission was varied in 2015 to omit condition 4. I agree with the Council that the condition was unnecessary inasmuch as a separate permission would be required to subdivide No 160 into two or more dwellings or materially change the use to a commercial or business use. However its removal dispensed with the need to confine the use of the outbuilding to a non-primary residential use provided that, in accordance with established planning principles, any use remained ancillary to, and in the same planning unit as, the C3 use of No 160.

12. Regarding the distinction between primary and incidental uses, the appellant has picked up on the Council's reasoning in the 2008 LDC that purports to consider primary living accommodation an incidental use. I would disagree with that reasoning but that said, it is not directly relevant to the main issue.<sup>2</sup>

*Current use*

13. An initial step in a use application case is to consider the appropriate planning unit following the guidance in *Burdle v Secretary of State for the Environment* [1972] 1 W.L.R. 1207, considering the unit(s) of occupation, range of activities carried on and their relationship one to another. This will assist in determining whether or not the change of use would constitute a material change of use requiring planning permission.
14. The outbuilding is used for visiting relatives, including elderly relatives who, due to ill health are unable to access the first floor accommodation in the main house. Visitors share facilities with the main house, including amenity space and on occasion take meals together. Utilities are shared with the main house, including gas, electricity and water.
15. I also take into account that there is a path from the outbuilding to the main house, and no barrier in between or designation of separate amenity space. The outbuilding is nevertheless isolated from the main house, being sited at the bottom of the rear garden. As the 2008 LDC also noted, facilities associated with the "granny annexe" include separate access and parking.
16. I agree with the appellant that *Uttlesford District Council v Secretary of State for the Environment and White* [1992] remains relevant in pointing out that, even if accommodation provides facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling, but would be a matter to decide on a fact and degree basis.
17. In my view the outbuilding has all the necessary facilities required for the unit to function independently from the main dwelling, including separate access. However as currently used, and bearing in mind the strong familial relationship between its occupiers and those of the main house, it remains an ancillary use to that of the main house and within the same planning unit.

*Nature of proposed use*

18. It is proposed to provide bed and breakfast accommodation for up to 4 to 6 months of the year with guests staying 2 to 3 nights at a time. Relatives would continue to use the outbuilding at other times and thus it is argued, a C3 use within the premises would be preserved.
19. Use by family members and visitors is intermittent and for temporary periods, and there appears no reason why this level of use would change significantly. The use classes order defines a C1 use as use for a hotel or as a boarding or guest house where, in each case, no significant element of care is provided. Apart from occasional use by relatives, the whole outbuilding would be in use as bed and breakfast accommodation by paying guests over a significant period

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<sup>2</sup> The LDC stated that the development benefits from deemed consent under Class E of Part I, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 "because the use as proposed is incidental to the enjoyment of the dwellinghouse as such". However the LDC makes lawful an intended primary residential use that is nevertheless ancillary to the main dwelling ("granny annexe"); not a use that is incidental and a non-primary use.

each year. This would result in a changed pattern of activity in and around the outbuilding, where the clientele would not form part of the same household as occupiers of the main house, a use not normally found within the C3 use class.

20. Thus a commercial activity would be introduced into a self-contained unit of accommodation, some 3.9m high and 9.6m wide by 5.2m deep (maximum) narrowing to 3.5m, which is physically separate from the main dwellinghouse. Despite the level of accommodation provided by the main property which is a large 4 bed dwelling, in my judgement the proposal would not be incidental or ancillary to No 160, but would be a significant change to the use of the outbuilding, creating a separate planning unit.
21. Breakfast is for most people an important ingredient of a bed and breakfast stay. Although it would be offered in the main house, kitchen facilities in the outbuilding would be available, including for cooking other meals during the stay. The nexus between the bed and breakfast function as proposed in both buildings, is too slight in my view to reduce the materiality of the change of use of the outbuilding, if used by paying guests for the periods intended.

#### *Other appeal decisions*

22. Reference is made to other appeal decisions including at Sevenoaks and Newcastle upon Tyne where certificates were granted for B&B use for bedrooms within a dwelling. The decisions do not relate to the use of a separate building and I consider they carry little weight in this appeal.
23. The Council referred to an appeal decision in Chichester but full details were not provided. From what I understand of the Council's reference to it, permission was refused for the separate residential use of a garage, because a condition to ensure it remained ancillary to the main dwelling was not considered to be enforceable. Such considerations are not however relevant to the current appeal under s195 of the Act.
24. The Brighton appeal decision<sup>3</sup>, also cited by the Council, dealt with a similar issue concerning enforceability of a condition. As the appellant points out, if a use is lawful but would be difficult to enforce or is contrary to policy, these are immaterial considerations in a certificate application.

#### *Conclusion*

25. I am satisfied on the evidence that the proposed use of the outbuilding by paying guests for bed and breakfast stays would, despite its occasional use exclusively for family visitors, be a material change of use of the building falling within the C1 use class, involving development that requires planning permission. I am not persuaded on the balance of probabilities that the extent of activity proposed would as a matter of fact and degree, be merely incidental or ancillary to the residential use of the main dwelling house.

#### **Overall Conclusion**

26. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of the proposed development was well founded. I will exercise the powers transferred to me in s195(3) of the Act and dismiss the appeal.

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<sup>3</sup> APP/Q1445/D/16/3151556

*Grahame Kean*

INSPECTOR





## Appeal Decision

Site visit made on 21 March 2017

**by John D Allan BA(Hons) BTP MRTPI**

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

**Decision date: 3<sup>rd</sup> April 2017**

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**Appeal Ref: APP/Q1445/D/17/3166809**

**29 Sussex Terrace, Brighton, BN2 9QJ**

- 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 R Novis against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/05420, dated 25 September 2016, was refused by notice dated 2 December 2016.
  - The development proposed is the erection of a rear conservatory.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effects of the proposal on the character and appearance of the area, and upon the living conditions of neighbouring occupiers.

### Reasons

3. The appeal property is a mid-terraced dwelling with a semi-basement facing forward towards Sussex Terrace and, in common with both neighbouring properties, with a full three-storey elevation to the rear. The original loft space has been converted to living accommodation with a large box dormer added to the rear roof slope. There is a three-storey, flat roof addition to the rear that adjoins the site's common side boundary with No 28 and which is pulled away from the opposing side boundary by roughly 1.5m. Beyond this is a further single-storey addition with a flat roof terrace above that is accessed directly from the kitchen. This extension is set slightly away from the boundary with No 28 and about just under 1m away from the opposing boundary with No 30. The proposal is to cover the entire terrace area with a conservatory extension.
  4. The rear elevations to the properties along Sussex Terrace have all been modified in a variety of ways, including most with multi-storied rear additions. I saw little rhythm or uniformity to the appearance of the terrace from the rear. Furthermore, the rear boundaries to these properties are heavily screened by a high retaining wall enclosure such that the backs of these properties are out of
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sight from beyond the dwellings' curtilages. As such, I am satisfied that the proposal would not impact upon the wider character or appearance of the area.

5. Nevertheless, by my estimate the conservatory would project around 7m beyond the original rear wall of the house at its deepest point. This would far exceed the depth of any additions I was able to clearly see above ground floor level to the rear of nearby properties. From both neighbouring gardens it would be effectively seen as a first floor addition. It would leapfrog beyond an existing extension and would appear in an elevated position, particularly in the outlook from the nearest ground and first floor windows to the rear of No 30. At this depth and height I am unable to share the appellant's view that the conservatory would appear as a natural adjunct. Instead I find that it would be incongruous and poorly related to the existing form of the dwelling, and overly dominant in its setting when viewed from both neighbouring properties.
6. The proposal is to build the conservatory with a solid flank wall facing No 28. The appellant has suggested that the glazed elevations facing No 30 could be obscurely glazed and I am satisfied that this could reasonably be secured through the imposition of an appropriately worded planning condition. In these circumstances any potential adverse impact upon levels of privacy to both adjoining properties could be averted.
7. My findings overall however are that the proposal would be seen as a visually intrusive and unneighbourly addition that would harm the residential amenity enjoyed by the adjoining occupiers. In this regard it would directly conflict with Policy QD14 *Extensions and alterations* of the Brighton & Hove Local Plan 2005 (LP), insofar as it seeks: a) to ensure that such development is well designed, sited and detailed in relation to the property to be extended and adjoining properties; and b) that it would not result in loss of amenity to neighbouring properties. It would also conflict with the aims and objectives of LP Policy QD27 *Protection of amenity*.

### **Conclusion**

8. Notwithstanding my findings in relation to the impact of the proposal upon the wider character and appearance of the area, I conclude that by reason of its depth, height, and incongruous form, the conservatory would harm the living conditions of neighbouring occupiers. Accordingly, and having regard to all other matters raised, the appeal is dismissed.

*John D Allan*

INSPECTOR



## Appeal Decision

Site visit made on 13 March 2017

**by Diane Fleming BA (Hons) MRTPI**

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

**Decision date: 3 April 2017**

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**Appeal Ref: APP/Q1445/X/16/3162334**

**14 Mill Lane, Portslade, Brighton, Sussex BN41 2DE**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr David Manser against the decision of Brighton & Hove City Council.
  - The application, Ref BH2016/01923, dated 25 May 2016, was refused by notice dated 19 October 2016.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is described as 'Proposal to site twin unit mobile home in the rear garden at 14 Mill Lane, Portslade, Brighton BN41 2DE (size of proposed mobile home 6600mm x 13600mm)'.
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### Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful.

### Procedural Matters

2. The appellant advises that he misquoted the post code as being BN41 2PJ for the property when completing the appeal form and that it should be BN41 2DE. In all the other documentation submitted by him and the Council it is correctly referenced and I have therefore taken this correction on board in reaching my decision.
3. Section 192(2) of the Town and Country Planning Act 1990 (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. Applying the terms of Section 192(2) of the 1990 Act to the appeal proposal, the Council has determined the application having regard to section 55 of the 1990 Act.

### Reasons

4. The appeal relates to a detached dwelling with a long rear garden. The application is for the siting of a 'twin unit' mobile home within the garden which the appellant states would come within the definition of a caravan in terms of its size, construction and mobility. It is to be used solely for guests, visiting
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family members and for hobby space; purposes the appellant describes as being incidental to the dwelling.

5. It is the appellant's responsibility to provide sufficient factual information to describe precisely what is being applied for.<sup>1</sup> In this case, the appellant provided a drawing and a statement to support his submission. The drawing showed each elevation of the proposed mobile unit and the statement gave dimensions to demonstrate that it would not exceed the size limitations stated in the statutory definition of a caravan given within the relevant legislation<sup>2</sup>. The documents also show that the construction of the mobile unit would be from two separate units split down the middle with the final act of assembly being their bolting together on site. The appellant's mobile unit would be 13.6m x 6.6m in area and 2.98m high and I note the Council do not dispute these measurements. I find that the dimensions of the proposed unit would therefore not exceed the size limitations set out in Part 1 of the CSCDA 1960<sup>3</sup>. The construction of the mobile unit would also satisfy the definition of a caravan.
6. With regard to the mobility test the CSCDA 1960 defines 'caravan' as any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed or by being transported on a motor vehicle or trailer) and any other motor vehicle so designed or adapted. The Council submit that once the mobile unit is erected that it could not be moved as it would have foundations dug into the earth and brick supporting walls underneath the structure. However, the appellant states that the mobile unit would be a self-supporting unit and that it would only 'sit on a raised brick plinth'. It is the plinth that would have a 'shallow mass concrete strip foundation below'. As such, the mobile unit would not be fixed to the ground so that it became a building and would therefore remain mobile.
7. The Council also contend that it has not been demonstrated with a structural specification that the mobile unit could be moved in 'one piece'. The appellant refers to a number of cases which deal with the 'mobility' test<sup>4</sup> to support his statement that the mobile unit conforms to the definition of a caravan. The Council make no comment on any of this case law. In *Carter* the decision was that a 'Park Home' was not a caravan as it could only be moved once its four prefabricated sections were dismantled. In *Byrne* a log cabin failed the mobility test as lifting it would have resulted in structural damage. In *Brightlingsea* the test was whether the structure was capable of being towed or carried on a road.
8. It seems to me that the appellant on this point has complied with the guidance in the PPG to provide sufficient factual information to describe precisely what is being applied for. He has described his proposal with clarity and precision so that it is understood exactly what is involved. In addition, he has stated that the structure of the mobile unit would possess the necessary qualities to enable it to be moved by road in one complete section.
9. Other matters such as the external appearance of the mobile unit and the period of time it would be in situ do not form part of the assessment

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<sup>1</sup> Planning Practice Guidance ID: 17c-005-20140306 (PPG)

<sup>2</sup> Caravan Sites and Control of Development Act 1960 (CSCDA) & Caravan Sites Act 1968 (CSA)

<sup>3</sup> Length 20m, width 6.8m and overall height of living accommodation 3.05m

<sup>4</sup> *Byrne v SSE & Arun DC* [1998] JPL 122, *Carter v SSE* [1995] JPL 311 (COA) and *Brightlingsea Haven Limited & Anor v Morris & Ors* [2008] EWHC 1928 (QB)

- requirements to determine whether a structure is a caravan or not. Notwithstanding the Council's detailed submissions on these points, I consider that the appellant's mobile unit would meet the statutory definition on the basis of all the information provided. If development is carried out not in accordance with the details submitted with the application then it is open to the Council to take further action.
10. Both parties also refer to the use of the mobile unit which I now assess. There are some instances where the stationing of a mobile unit will not involve development. Under section 55(2)(d) of the 1990 Act, use of any buildings or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such, does not involve development for the purposes of the Act. The issue to be determined here is whether the mobile unit would be used for a purpose incidental to the enjoyment of the dwelling house.
  11. The Council do not dispute that the property at the appeal site is used as a single dwelling house and that it benefits from permitted development rights as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015.
  12. From the appellant's description and the information shown on the drawing the mobile unit would possess all the essential facilities for separate day-to-day living. The inside of the unit would be laid out with two bedrooms, two bathrooms and a living area within which there would be, as described by the appellant, a kitchenette. As a result the Council take the view that the mobile unit would have the potential to function as a separate unit of accommodation and would represent the introduction of a new planning unit. However, this in itself is not conclusive as it is necessary to examine how the accommodation in the mobile unit would be used and occupied.
  13. There are a number of accepted tests<sup>5</sup> when dealing with the consideration of planning units. The point at issue in this case is whether the siting of a mobile unit within the rear garden would result in two dwelling houses rather than one. A key consideration is whether physically and functionally separate areas would be created which would amount to two separate planning units.
  14. With regard to the physical relationship of the mobile unit, it would be sited in the rear garden of the host property and the drawing shows that this would not be subdivided with a fence or any other form of division to create a separate garden area. With regard to access, there is a garden gate positioned between the detached garage situated in the rear garden and the corner of the host property. This enables access to the rear garden from the garage forecourt. As this would not be separated in any way from the rest of the garden, the mobile unit would therefore be under the control of the appellant. Notwithstanding the provision of a separate soakaway and the facilities within the unit, there would still be a physical relationship with the host property as gas, electricity and water supplies would be taken from it.
  15. With regard to how the mobile unit would function, the host property is a detached dwelling with three bedrooms, two reception rooms, a conservatory, kitchen and bathroom. The footprint of the mobile unit would be 80 sq m which would exceed the footprint of the host dwelling by 6 sq m. However, the

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<sup>5</sup> Burdle v SSE [1972] 1 WLR 1207

host property is a two storey structure which the appellant states would be used by the parent(s) and sibling of the appellant's partner for day to day living other than for sleeping and bathing purposes. These activities would be carried out in the mobile unit. The appellant's partner's family would take main meals, wash clothes and store food in the host property. In addition, no rent would be paid for the use of the mobile unit and family members would share the cost of utility supplies. Following their vacation of the mobile unit, it would then be used as a hobby area by the appellant. Taking all this into account, I consider that the proposed use of the mobile unit would remain functionally related to the host property and its use as a dwelling. In effect, the siting of the mobile unit would amount to the provision of a residential annexe.

16. In relation to the appeal site I am required to determine the appeal on the basis of the claimed use. This is that the land would be used to site a mobile unit which would be used as additional living accommodation and for recreation. The unit would not be separated from the host property and I am therefore satisfied that the siting of the mobile unit would not lead to the creation of a new planning unit. Taking these factors into account I conclude, as a matter of fact and degree, that the siting of a mobile unit as proposed would not amount to development requiring planning permission.

### **Conclusion**

17. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the development described as 'Proposal to site twin unit mobile home in the rear garden at 14 Mill Lane, Portslade, Brighton BN41 2DE (size of proposed mobile home 6600mm x 13600mm)' was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

*D Fleming*

INSPECTOR

## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 25 May 2016 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The applicant's mobile unit meets the statutory definition of a caravan, would be sited within the garden of a dwelling house and would not be separated from it. It would be used solely by the applicant's partner's parents and sibling as ancillary residential accommodation and by the applicant for recreation, thus there would not be a new planning unit.

*D Fleming*

Diane Fleming  
Inspector

Date: 3 April 2017

Reference: APP/Q1445/X/16/3162334

### ***First Schedule***

Proposal to site twin unit mobile home in the rear garden at 14 Mill Lane, Portslade, Brighton BN41 2DE (size of proposed mobile home 6600mm x 13600mm).

### ***Second Schedule***

Land at 14 Mill Lane, Portslade, Brighton BN41 2DE

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## NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

## Plan

This is the plan referred to in the Lawful Development Certificate dated: 3 April 2017

**by Diane Fleming BA (Hons) MRTPI**

**Land at:** 14 Mill Lane, Portslade, Brighton BN41 2DE

**Reference:** APP/Q1445/X/16/3162334

**Scale:** Not to scale

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## Appeal Decision

Site visit made on 21 March 2017

**by John D Allan BA(Hons) BTP MRTPI**

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

**Decision date: 3<sup>rd</sup> April 2017**

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**Appeal Ref: APP/Q1445/D/17/3166417**  
**16 Welbeck Avenue, Hove, BN3 4JL**

- 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 J Heal against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/05110, dated 17 August 2016, was refused by notice dated 7 November 2016.
  - The development proposed is to replace garage with the erection of a two-storey extension.
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### Decision

1. The appeal is allowed and planning permission is granted to replace garage with the erection of a two-storey extension at 16 Welbeck Avenue, Hove, BN3 4JL in accordance with the terms of the application, Ref BH2016/05110, dated 17 August 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Drg No 350.13.03a.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Main Issue

2. The main issue is the effect of the proposal upon the character and appearance of 16 Welbeck Avenue and the street scene.

### Reasons

3. The appeal property is a two-storey, semi-detached dwelling within a residential area. Welbeck Avenue is typical of many similar streets in the locality which run perpendicular to the coastline and which consist of broadly similar aged properties. The majority of these are semi-detached with various
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- repeat designs but which are interspersed with some alternative dwelling types and appearances.
4. No 16 has previously been extended, including with a hip to gable side roof addition and a rear dormer window. As a result of these works to the roof, the symmetrical form of the original semi-detached pair has already been lost. This is not atypical for the area where many properties have been individually altered or extended in a variety of ways.
  5. The Council adopted its *Design Guide for Extensions and Alterations* as a Supplementary Planning Document (SPD) in June 2013. Part 3.2 of the SPD deals with side extensions and recognises care has to be taken to ensure that they assimilate well with the host building and the street scene. In relation to two-storey side extensions it sets out five design principles that are given as guidance to ensure that the aims and objectives of the SPD are met.
  6. In this instance the two-storey extension would replace an existing side attached garage and would be built over existing ground floor space behind it, with a further slight projection beyond the original rear wall of the dwelling. The side extension would be recessed behind the main front wall of the dwelling by 500mm, in accord with the SPD's advice, and would continue the gabled form of the existing dwelling, but with a marginally lower ridge. Although this would not reflect the original roof form of the dwelling, in this aspect the proposal would have no further impact upon the existing symmetry of the semi-detached pair. The width of the extension would be reasonably modest and overall I am satisfied that it would appear as an appropriately subservient addition that would allow the existing form of the host dwelling to remain clearly observed.
  7. There is a gap between the flank wall of the garage and the site's boundary with No 18 Welbeck Avenue that would be maintained. This would meet the SPD's required minimum distance of 1m and there is nothing before me to show that the plot should be considered to be so spacious that it is one where the SPD suggests a greater separation may be more appropriate. The separation would ensure that there would be no physical terracing with the neighbouring property and I am satisfied that the proposal would not 'over-extend' the existing building in any disproportionate or unbalanced manner. Moreover, the gap that would be maintained would reflect similar spacing between some other properties along Welbeck Avenue, including a few I saw where such gaps are part of the original layout between neighbouring properties and which serve to inform the rhythm and appearance of the wider street scene.
  8. The design, detailing, and materials used in the extension would appropriately match those of the main building and no side windows are proposed that would impact upon the neighbours' living conditions with regard to privacy.
  9. Considering all of this, I can detect no conflict with the SPD's guiding design principles as they relate to two-storey side extensions and overall I find that the proposal would appear well related to the form of No 16 without harm to the rhythm and appearance of the street scene. As such, there would be no conflict with Policy QD14 of the Brighton and Hove Local Plan 2005, which deals with alterations and extensions.

*Other matters*

10. I have noted some concern over the appearance of the extension's projection to the rear. However, it would have a pitched roof that would mimic a number of other rear extensions that were plainly visible to me from the rear garden of the appeal property. I accept that these may be extensions projecting from the back of the original property rather than from a side extension. However, this does not alter my view that the form of the proposal is acceptable.
11. I am aware of the planning history to the appeal property but my decision is based upon the planning merits of the proposal that is before me.
12. There is no evidence before me to suggest that the property is not lawfully occupied as a dwelling house or that the proposal would result in additional parking along Welbeck Avenue that either could not be accommodated or else which would cause detriment to conditions of highway safety or residential amenity.
13. I recognise that the extension would fill part of the gap between Nos 16 and 18, but I am satisfied that the proposal would not be harmful to the street scene for reasons that are given above. Given the separation distance with properties on the opposite side of Welbeck Avenue, and those to the rear along Wish Road, there would be no impact upon any nearby occupiers in terms of overshadowing or visual intrusion.
14. The outlook from the rear facing first floor window to the extension would afford views only obliquely over the neighbouring garden and in a form typical for any neighbouring property in an urban environment.

**Conditions**

15. I have imposed a condition specifying the relevant drawing as this provides certainty. In order to safeguard the character and appearance of the area it is necessary to ensure that the new works are carried out in materials to match the existing.

**Conclusion**

16. For the reasons given I conclude that there would be no harm to the character or appearance of No 16 Welbeck Avenue or to the street scene. Accordingly, and in the absence of any other conflict with the development plan, the appeal is allowed.

*John D Allan*

INSPECTOR





## Appeal Decision

Site visit made on 21 March 2017

**by John D Allan BA(Hons) BTP MRTPI**

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

**Decision date: 3<sup>rd</sup> April 2017**

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**Appeal Ref: APP/Q1445/D/17/3166571**

**136 Longhill Road, Brighton, Brighton & Hove, BN2 7BD**

- 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 Derrick Herriott against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/04462, dated 10 December 2015, was refused by notice dated 18 November 2016.
  - The development proposed is a roof conversion of a detached garage with internal alterations.
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### Decision

1. The appeal is allowed and planning permission is granted for a roof conversion of a detached garage with internal alterations at 136 Longhill Road, Brighton, Brighton & Hove, BN2 7BD in accordance with the terms of the application, Ref BH2015/04462, dated 10 December 2015, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg Nos 3508.EX.01 & 3508.PL.05.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) The detached outbuilding to which the development hereby permitted relates shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 136 Longhill Road.

### Main Issues

2. The main issues are whether the proposal would amount to a self-contained unit of accommodation and its effect upon the character and appearance of the area.
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## Reasons

3. The appeal relates to a detached garage building that sits within the curtilage of 136 Longhill Road, a detached dwelling that occupies a backland location behind properties fronting Longhill Road and which backs on to the rear gardens of properties beyond, on higher ground along Wanderdown Road. The appeal site is accessed via a shared driveway from Longhill Road.
4. At the time of my visit the garage was cleared of any contents but provided typical ground floor garaging space with internal stairs leading to an area of first floor storage served by a front facing dormer window. Nevertheless, I note that planning permission was given in October 2015 for what was described as '*Conversion of detached garage to form annex with alterations including roof extension, side dormer and rooflights with associated external works*' (Ref BH2015/03045). That permission remains extant.
5. The appellant has provided a copy of approved Drg No 3508.PL.04 Rev A, which is referenced within the decision notice. This shows the garage converted to living space with an entrance lobby, toilet/shower room, and sitting room all on the ground floor, and with a bedroom over. The roof is shown to be altered from a hip end and dormer to a gable to the front, where the garage door would be replaced with an entrance door, and a side dormer added to match the width of an existing triple-width window opening below.
6. In that case the Council was clearly satisfied that the building would be used as an annex in connection with the main dwelling at No 136 and further control was imposed through the use of a condition accordingly, to ensure that the building would not be occupied as a separate unit of accommodation. The current appeal proposal is similar to the permitted scheme but includes a wider side dormer window and an enlarged ground floor flank window below. In addition the first floor space would include an en-suite WC.
7. The Council is concerned that there is no clear dependency shown between the building and the main dwelling. However, with the exception of the first floor en-suite WC, I see little difference between the space that has been accepted by the extant planning permission and the current proposal.
8. The express intention of the proposal is for the existing building to be occupied as an annex to the main dwelling. The building would share a number of facilities with the main house, including access for drivers and pedestrians, parking and the garden areas. It would remain to be a considerably smaller building in comparison to the main dwelling, being subservient in scale and function. It would be devoid of any kitchen facilities and it would be within immediate proximity and access to the main dwelling. Overall, and consistent with the Council's previous view, I am satisfied that the building would be clearly capable of being occupied as an annex in relation to No 136.
9. Whilst I consider it unlikely that the building would be occupied as a separate dwelling, I accept that it could be possible with some internal alterations and if this were to be the case this could lead to conditions that would be prejudicial to the living conditions of future occupants in terms of the quality and amount of the living and amenity space. It could possibly also lead to difficulties in relation to car parking provision and access. Nevertheless, occupation in this

manner could readily be controlled by condition, again consistent with the Council's previous approach.

10. I have noted the Council's view that a condition would not ensure a link with the main dwelling in perpetuity given the access and layout of the proposed extensions and in this regard they make reference to an appeal case in Chichester dating from 2002. However, I have no detailed knowledge of the case they refer to. Moreover, I have carefully considered the relationship between the proposal and the main dwelling above and have found that the building would be clearly capable of being occupied as an annex. Furthermore, the Council's approach to the use of a condition in this instance runs counter to their approach as recently as October 2015. In my view a condition would be necessary, for the reasons I have given. I am also satisfied that it would meet the further tests given within the National Planning Policy Framework and the government's Planning Practice Guidance for the use of conditions.
11. The Council considers that the enlargement of the garage at roof level and the installation of windows and doors would create the appearance of a small dwelling within the front garden. I disagree. With the exception of a wider dormer window and window below, the appeal proposal would be virtually identical to that permitted by the Council in 2015. The proposed dormer would sit comfortably within the roof slope of the building, which would remain subordinate to the main dwelling. Overall, I consider that the building would appear comfortable in its setting within a contained residential plot, without any impact upon the wider character or appearance of the area.
12. In light of these findings I am satisfied that the use of the building as a self-contained dwelling could be adequately controlled by condition and that there would be no harm to the character or appearance of the area. In these circumstances there would be no conflict with Policy CP14 of the Brighton & Hove City Plan Part One (CP Pt 1) March 2016, which deals with housing density, or with Policies HO5 and QD27 of the Brighton & Hove Local Plan 2005, which deal with the provision of private amenity space in residential development and the protection of residential amenity respectively. Neither would there be conflict CP Pt 1 Policy CP12, which deals with the quality of urban design.

### **Conditions**

13. In addition to the condition discussed above, a condition specifying the relevant drawings is necessary to provide certainty. I note that the decision notice makes reference to Drg No 3508.PL.04. The Council has since confirmed that this is an error and that the application drawing was in fact Drg No 3508.PL.05. My condition reflects this. In order to safeguard the character and appearance of the area a further condition is also necessary to ensure that the new works are carried out in materials to match the existing.

### **Conclusion**

14. For the reasons given, and in the absence of any other conflict with the development plan, the appeal is allowed.

*John D Allan* INSPECTOR





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## Appeal Decision

Site visit made on 27 March 2017

by **Nicola Davies BA DipTP MRTPI**

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

Decision date: 4 April 2017

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**Appeal Ref: APP/Q1445/W/16/3162660**

**Maisonette 42 Dyke Road Drive, Brighton BN1 6AJ**

- 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 Sam Turton against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/05133, dated 27 August 2016, was refused by notice dated 27 October 2016.
  - The development proposed is a loft conversion incorporating rear dormer and front rooflights.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue raised in respect of the appeal is the effect of the proposed development on the character and appearance of the host building and the area.

### Reasons

3. There is a degree of uniformity to the roofs of this long row of terraced properties, although this has been interrupted by some large dormer roof extensions. Despite this, the properties maintain a continuity of appearance with the roofs comprising chimneys, dividing roof parapets and roof tiles. The roofline of the terrace is stepped reflecting the declining land gradient of Dyke Road Drive from North West to South East. I observed that roofs to the North West are positioned slightly higher than that of the appeal property, however the staggering forms part of the rhythm of this long residential terrace.
  4. The requirement of the Council's Supplementary Planning Document (SPD) 12 'Design Guide for Extensions and Alterations' indicates that dormer roof extensions should not occupy the full width of the roof and have the appearance of an extra storey on top of the building. It further advises that the dormer should be kept as small as possible and clearly be a subordinate addition to the roof, set appropriately in the roof space and well off the sides, ridge and eaves of the roof. Furthermore, the supporting structure should be kept to a minimum with no large areas of cladding and should not be substantially larger than the window itself.
  5. Although the rear dormer would be set off the ridge line, eaves and south east side roof parapet, the dormer would occupy nearly all the rear roof slope. The
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- dormer would be of a substantial size and would be a dominant visual feature upon the host building and would appear as an extra storey at the top of the building. Although the windows would be of similar size and align to those below in the existing rear elevation, the design of the dormer would have large areas of cladding with disproportionately small windows to its overall size. The dormer roof extension would not be a subordinate feature within this roof slope as it would dominate the original building and be visually intrusive as a result of its significant size and appearance.
6. The applicant has highlighted other examples of large full width rear dormer roof additions to properties close by. These are located upon rear roofs to the South East of the appeal site but further along the terrace in the same direction the original rear roof slopes largely remain unaltered with only a few dormer roof extensions in place. I observed that the rear roofs to the North West are uninterrupted. The full width rear dormer roof extensions close by vary in design and appeared to me, without having any other substantive evidence before me that indicates otherwise, to be well established additions. I accept that these existing dormer roof extensions have interrupted the original rear roof slopes which form part of the attractive character and appearance of this long terrace of residential properties. However, despite the roofs to the North West being positioned slightly higher than that of the appeal property, the insertion of a further large dormer roof extension of poor design would, in my opinion, both harm the visual appearance of the host building and would add a further discordant and harmful extension to the roof slopes of this long terrace.
  7. The appellant has drawn my attention to a 2007 planning application in which the Council has granted a planning permission for a loft conversion at No 39 Dyke Road Drive. However, that planning permission pre-dated the National Planning Policy Framework (the Framework) and the adoption of the Council SPD 12. The policy context in which this proposal should be assessed has therefore been updated. The proposal should therefore be considered in accordance with the current development plan policies that are in place.
  8. I acknowledge there are no residential properties bordering the rear of the terrace. I also accept the proposed dormer roof extension would not be prominent in views from Preston Road or the conservation area on the opposite side or in skyline views from Preston Park, notwithstanding any development that may take place within the gap between the appeal site and Preston Road. Nonetheless, it would be visible in outlook from existing developments in close proximity to the appeal site and in views from the rear gardens of neighbouring properties.
  9. Notwithstanding some local support for the proposal, I consider the proposed development would adversely affect the character and appearance of the existing building and the general area.
  10. For the above reasons the proposed development would be harmful to the character and appearance of the area, and would be contrary to Policy QD14 of the Brighton & Hove Local Plan and SPD 12. These seek extensions or alterations to existing buildings, including the formation of rooms in the roof, to be well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area, amongst other matters. The proposal would also conflict with the aims of paragraphs 17, 56 and 58 of the

Framework that aim to secure high quality design that responds to local character and that contributes to making places better for people.

**Other Matters**

11. I note the appellant's wish to optimise the property and provide extended living accommodation enabling his family to remain resident within a school catchment area. This would be a benefit of the development. Furthermore, I acknowledge that increasing property prices may be pricing less affluent families out of the area. Whilst I sympathise with the personal circumstances of the appellant and the future accommodation needs of his family, I am mindful that the harm identified would be permanent and is not outweighed by the appellant's particular circumstances.

**Conclusions**

12. For the reasons given above, I conclude that the appeal should be dismissed.

*Nicola Davies*

INSPECTOR



## Appeal Decision

Site visit made on 27 March 2017

by **Nicola Davies BA DipTP MRTPI**

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

Decision date: 4 April 2017

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### **Appeal Ref: APP/Q1445/W/16/3159351 148 Valley Drive, Brighton BN1 5LG**

- 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 P Cloherty against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/02066, dated 3 June 2016, was refused by notice dated 16 August 2016.
  - The development proposed is the erection of a new dwelling on land to the rear of 148 Valley Drive.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues raised in respect of the appeal are the effect of the proposed development on:
  - (a) The character and appearance of the area; and
  - (b) The living conditions of existing and future occupiers.

### **Reasons**

#### *The character and appearance of the area*

3. The area is predominantly residential in character comprising a mix of bungalows and detached two-storey dwellings that, in the main, have long rear gardens, although I acknowledge there are a few properties around the junction of Green Ridge, Valley Drive and Glen Rise that have smaller gardens. The appeal property has a less conventional arrangement to that of surrounding properties in that its associated rear garden is positioned alongside Green Ridge. Nonetheless, this two-storey dwelling with its garden maintains the rhythm of plot sizes and long gardens of the properties in the area.
  4. I observed that although the architectural styles of properties vary, there is a general continuity of road frontage development in the area. The width of the new plot and the space between the proposed house and its side boundaries and the separation with adjoining properties would be similar to that of other properties within the vicinity of the appeal site. Although of modern design and materials, I consider the size and appearance of the proposed dwelling
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- would be acceptable when viewed within the streetscene to this side of Green Ridge.
5. Nonetheless, the sub-division of the site and resulting plot for the proposed dwelling would be significantly smaller than those in the area, including those properties around the junction of Green Ridge, Valley Drive and Glen Rise. The proposed dwelling would be constructed in close proximity to the southern boundary of the site and would provide only a small garden area for the new dwelling. I acknowledge the appellant has made an assessment of the sizes of the plots in the vicinity of the appeal site. However, the proposed dwelling with small area of outdoor space would be out of keeping with the size of gardens and overall plot sizes in the area. The appellant has highlighted that, unlike some other Authorities, the Council does not have local guidance in place relating to density levels and it has not referred to the Council's Urban Capacity Study. Nonetheless, I consider the sub-division of this plot without an appropriately sized amenity area would create a cramped development that would represent an overdevelopment of the site.
  6. For the above reasons the proposed development would be harmful to the character and appearance of the area, and would be contrary to Policy CP12 Brighton and Hove City Plan Part One which seeks development to have a strong sense of place and to respect the general layout, pattern and footprint of buildings and streets, amongst other matters. The proposal would also conflict with paragraphs 17, 53, 56 and 58 of the National Planning Policy Framework (the Framework) that aim to ensure development responds to local character and resists inappropriate development of residential gardens where it would cause harm to the local area.

*The living conditions of existing and future occupiers*

7. The proposed dwelling would be within close proximity to the existing dwelling, No 148 Valley Drive. I observed this dwelling has rear windows that serve habitable rooms which have outlook toward the proposed dwelling. There is also a large conservatory at the rear of this existing property, albeit I acknowledge the appellant's intention is to replace it with a new conservatory of smaller size, although again positioned at the south western end of the rear elevation. The proposed dwelling, due to its elevated siting, height, mass and close proximity to the existing dwelling, would be particularly prominent and dominate in the outlook from the habitable rooms of this existing dwelling. This would be harmful to the living conditions of the occupiers.
8. Furthermore, the elevated positioned of the new dwelling with windows serving habitable rooms would provide outlook toward the existing dwelling. The proposed plans indicated the windows of the first floor study would be obscure glazed. This would prevent observation from the study occurring. I accept that a boundary enclosure would prevent observation toward the ground floor living accommodation and outdoor area, but it would not prevent observation toward the first floor windows, some of which serve habitable living space. For this reason, I consider the proposed dwelling would harm the living environment of the existing occupiers.
9. With regard to the occupiers of No 150 Valley Drive I observed that there are trees and vegetation along the dividing southern boundary which would significantly reduce the effect of the proposed dwelling upon the occupiers of

- this property. I do not consider that their living conditions would be unduly compromised as a result of the proposed development.
10. The sub-division of the plot would result in two smaller plots being created. The existing property is a large family sized dwelling. Although not particularly valuable in townscape terms, the existing garden remains important for use by the occupants of this house as an outdoor amenity space. Such space would normally be used by occupants for sitting out, drying clothes, storing bicycles, general outdoor recreation, and so on. The appellant advises that, following the sub-division of the plot, an existing small area of garden to the south side of No 148 would become the main outdoor amenity space for the occupiers of this existing dwelling. However, the loss of the existing rear garden area and retention of only a small area of garden would not provide adequate outdoor space for the occupiers of the existing family dwelling.
  11. With regard to the proposed dwelling, a small area of private outdoor space would be provided to the sides and rear. I do not consider that the proposed dwelling would be provided with adequate outdoor amenity space to accommodate sitting out, clothes drying, storage and general recreational space for what would be a family dwelling.
  12. Whilst the appellant may consider the acceptability of the standard of amenity space to be a matter for future occupiers to decide and that the appeal site is in easy access to public amenity spaces and the South Downs National Park, this does not justify or make it acceptable to design and create poor living environments. Although houses in other parts of the City may have smaller private amenity spaces this does not justify the creation of small outdoor amenity areas in this particular location.
  13. For the above reasons the proposed development would be harmful to the living conditions of both existing and future occupiers and would be contrary to Policies HO5 and QD27 of the Brighton & Hove Local Plan. These policies seek development to make provision for private usable amenity space in new residential development and to prevent the loss of amenity to existing occupiers, amongst other matters. The proposed development would also be contrary to paragraph 17 of the Framework that seeks to secure a good standard of amenity for all existing and future occupiers of land and buildings.

### **Other Matters**

14. Paragraph 49 of the Framework states that housing should be considered in the context of sustainable development. Policy SS1 of the Brighton and Hove City Plan Part One reinforces this principle. Accordingly I have considered whether the appeal proposal would be consistent with the social, economic and environmental dimensions of sustainable development, as set out in paragraph 7 of the Framework noting that the Council has indicated that it has a five year supply of housing sites. Paragraph 8 of the Framework specifies that these three elements of sustainable development need to be considered together and are mutually dependant and should be sought jointly.
15. I have found that the proposed development would harm the character and appearance of the area and the living conditions of both existing and future occupiers, placing it in conflict with the environmental dimension of paragraph 7. Whilst the principle of residential development may be acceptable in this urban location, which is accessible to services and public transport, the positive

housing supply benefit, even if contributing to an historic shortfall in housing delivery, does not outweigh the environmental harm that I have identified above. Furthermore, the harm arising from the development leads me to conclude that there is conflict with the development plan as a whole and I find the scheme is not sustainable development.

16. I accept there may be a demand for three bedroom dwellings such as this of open-plan layout incorporating office space to enable homeworking in the City. I also acknowledge that the site is not Listed nor falls within a conservation area and there are no tree preservation orders or contamination issues pertaining to the site. Cycle and car parking would also be provided. However, these matters do not alter my findings that the scheme is not sustainable development.
17. A number of residents close by have raised other concerns in relation to the proposal but in view of my conclusion on the main issues, there is no need for me to address these in the current decision.

### **Conclusions**

18. For the reasons given above, I conclude that the appeal should be dismissed.

*Nicola Davies*

INSPECTOR





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# Appeal Decision

Site visit made on 3 April 2017

by **Clive Tokley MRTPI**

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

Decision date: 12<sup>th</sup> April 2017

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## **Appeal Ref: APP/Q1445/D/16/3167443**

### **1 Varndean Holt, Brighton, BN1 6QX.**

- 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 John Skinner & Ms Sonia Mendoza against the decision of Brighton and Hove City Council.
  - The application Ref BH2016/05165 dated 31 August 2016 was refused by notice dated 26 October 2016.
  - The development proposed is conversion of loft space with dormers to front and rear, roof light to front and rear and window to side.
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## **Decision**

1. The appeal is allowed and planning permission is granted for conversion of loft space with dormers to front and rear, roof light to front and rear and window to side at 1 Varndean Holt, Brighton, BN1 6QX. The permission is in accordance with the terms of the application Ref BH2016/05165 dated 31 August 2016 subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 3) With the exception of the detail of the link between the previously approved rear dormers indicated on the loft floor plan (drawing No PR.02) the development hereby permitted shall be carried out in accordance with drawing No PR.01 and drawing No PR.02. As regards the treatment of the infill panel between the previously approved rear dormers the development hereby permitted shall be carried out in accordance with drawing No PR.01.

## **Background to Appeal and Main Issue**

2. On 7 July 2016 permission was granted for "Roof alterations incorporating dormers to rear, window to side and rooflights to front" (Council ref BH2016/01720). The officer report on that application refers to north and south facing dormers and a front dormer is shown on the approved drawings. I therefore conclude that whilst not referred to in the description that permission includes a front dormer.
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3. In most respects the appeal proposal is the same as that already permitted; the only difference is that it includes a flat-roofed link between the two rear dormers. The reason for refusal refers to "The proposed dormer" but reference to the officer report reveals that the Council's concern lies with the rear dormer.
4. The main issue is the effect of the proposed rear dormer on the character and appearance of the host building and the area.

## **Reasons**

### *Character and appearance*

5. No 1 Varndean Holt lies at the edge of a modern residential development. The house is at right angles to similarly designed dwellings in a cul-de-sac to the west. The gardens of those dwellings are adjacent to the side and rear boundaries of the appeal property. To its east side No 1 is bounded by an area of deciduous woodland within the grounds of a nearby school. The rear roof plane of the appeal property is visible from the rear gardens of the nearest dwellings and obliquely from the cul-de-sac in a narrow view between Nos 3 and 4 Varndean Holt. There is no other public view.
6. The proposed rear dormer would comprise two distinct gabled pitched-roof elements containing white windows to match the house. The windows within the dormer would align with those at first floor level and would be of a similar design. The dormer would be set below the ridge of the roof, well above eaves level and inset from the verge. The prominence of the gable roofed elements as compared with the narrower and lower link would not result in a "box dormer" and I consider that the envelope of the dormer would appear subordinate to the roof. In these respects therefore I consider that the proposal would accord with the guidance in the Council's *Supplementary Planning Document – design guide for extensions and alterations* (SPD12).
7. The detailing of the link is unclear; the Design and Access Statement (DAS) indicates that a window is proposed in the infill and this is indicated on the proposed loft floor plan (drawing No PR.02). However the elevation drawing (PR.01) indicates that the link would be clad in hanging tiles. The officer report and reason for refusal indicate that the Council's decision is based on the depiction of the proposal on the elevation drawing. In the absence of any detailing of the window there is no indication as to how it would appear in elevation. I am conscious that any third parties who may have viewed the application would most likely have relied on the elevation drawing.
8. Having seen the Council's interpretation of the proposal the appellants make no comment on the text of the refusal reason and therefore have not taken the opportunity to clarify the proposal. Taking account of the basis for the Council's decision and the most likely interpretation of any third parties I have determined the appeal on the basis that the link would be tile clad. If the appellants seek to amend the proposal to include a window they would need to make a further application to the Council.
9. The slightly-recessed tile-hung link between the dormers would be narrower than the dormers on each side. The application is not explicit but hanging tiles are referred to on drawing No PR.01 and the DAS indicates that materials to match the existing are proposed. The roof is clad in slate but I saw that hanging

tiles are used on the gable and cheeks of the existing front dormer and I have therefore determined the appeal on the basis that the link would be clad in tiles to match those on that dormer.

10. The white windows with the white bargeboards of the gables above would be much more prominent than the darker coloured tiled panel between them and I consider that to the casual observer from the very limited public view from Varndean Holt the link would be almost imperceptible. The link would be more evident from the nearest neighbouring gardens but it would have no harmful effect on the character or appearance of the host building or the area at the rear of the houses.
11. On this main issue I conclude that the proposal would not detract from the character or appearance of the dwelling or the area around it and would not conflict with Policy QD14 of the *Brighton and Hove Local Plan 2005*.

*Other matters*

12. A neighbouring occupier has raised concerns about overlooking, loss of light and the effect of lighting on her property. Taking account of the distance between rear of No 3 Varndean Holt and the front and rear dormers they would have no material effect on light reaching that property. The rear of No 3 is already overlooked to some extent from existing rear windows at No 1. The proposed rear dormer would be more distant from No 3 with a more oblique angle of view and would not result in a harmful increase in overlooking. I have no reason to conclude that the proposal would result in the generation of light that would result in sleep disturbance. In all of these respects the proposal would be no different from the extant permission which provides a fall-back position for the appellants and is a material consideration in this appeal.

**Conditions**

13. I have imposed the normal condition governing the commencement of development and, in order to ensure a satisfactory appearance, a condition requiring that the external materials match those of the house. As I indicate above there is an inconsistency within the drawings and I have resolved this within condition 3.

**Conclusion**

14. Taking account of all matters I have concluded that the proposal would not detract from the character or appearance of the host building or the area and that the appeal should succeed.

*Clive Tokley*

INSPECTOR



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## Appeal Decision

Site visit made on 3 April 2017

by **Clive Tokley MRTPI**

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

Decision date: 12<sup>th</sup> April 2017

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**Appeal Ref: APP/Q1445/D/16/3161374**  
**7 Berriedale Avenue, Hove, BN3 4JF.**

- 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 Sara Ovenden against the decision of Brighton and Hove City Council.
  - The application Ref BH2016/02224 dated 15 June 2016 was refused by notice dated 12 August 2016.
  - The development proposed is a first floor extension over existing garage.
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### Decision

1. The appeal is allowed and planning permission is granted for a first floor extension over existing garage at 7 Berriedale Avenue, Hove, BN3 4JF. The permission is in accordance with the terms of the application BH2016/02224 dated 15 June 2016 subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 37/01, 37/05, 37/06, 37/07 and 38/08.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.

### Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area and its effect on the living conditions of the occupiers of No 5 Berriedale Avenue as regards light and outlook.

### Reasons

#### *Character and appearance*

3. Berriedale Avenue is one of a number of streets running at right angles from the Hove sea front. It is fronted by detached and semi-detached houses. The houses have hipped roofs and a range of front square bay and bow windows under gabled and hipped roof projections. Whilst there is a variety of detailing the essential character of the houses is derived from their large windows with a
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consistent finish of white render at first floor level with brick work below and tile hanging to the bays.

4. Most of the gaps between the dwellings are occupied by single garages or pairs of garages. The garages are of no consistent design and I saw that a number of the single garages had been extended at first floor level. Some the examples that I saw have been designed to reflect the detailing of the host houses (for example at No 26) whereas others are more crudely designed with no architectural merit.
5. The principal distinctive features of the appeal dwelling are its bay and bow windows which dominate its front elevation and its tall white-rendered chimneys rising from its southern flank wall. The proposed extension would be a narrow addition of simple design that would contrast with the boldness of the front elevation of the house. The building would be lower than the main body of the house and I consider that as result of its size and design it would appear subservient to the host dwelling. The flat roof would be disguised by a low parapet with a brick detail that mimics that of the existing garage and I consider that the proposal would not detract from the character or appearance of the dwelling.
6. I note the Council's observation that some of the first floor additions in Berriedale Avenue do not have planning permission but they are nevertheless part of the fabric of the street and cannot be ignored. Whilst the proposal would reduce the gap between No 5 and No 7 at first floor level the houses would be clearly distinguished at roof level. When viewed along the street in either direction the first floor would be screened by the projecting bays and I consider that in the context of those strong features the proposal would have very limited effect on the appearance of the street. When seen square-on from the road the reduced space between the dwellings would be apparent but I consider that taking account of the dominant features at the front of the houses and the narrowing of spaces elsewhere the rhythm of the street would not be harmed by the proposal.
7. The Council draws attention to the design principles for two-storey side extensions set out in its *Supplementary Planning Document – design guide for extensions and alterations* (SPD12) and I agree that in a number of respects the proposal would not comply with that guidance. However I consider that the design of the extension would not detract from the host dwelling and that the failure to maintain a gap between the flank wall and the boundary would not harm the distinctive character of the area.
8. On this issue I conclude that whilst the proposal would not adhere to the SPD12 guidance it would not detract from the character and appearance of the area and would not conflict with Policy QD14 of the *Brighton & Hove Local Plan* (LP).

#### *Living conditions*

9. No 5 Berriedale Avenue has a number of windows in its flank wall facing No 7. The largest of these is glazed in decorative obscured glass and lights the stairway. The front edge of that window is roughly in line with the rear wall of the garage at No 7 and would therefore be similarly positioned behind the proposed first floor addition. The proposal would lie to the north of that window off-set to the west. There is no outlook from the window and taking account of

the size of the window and its orientation I consider that the proposal would have a limited effect on natural light reaching the stairway. An obscure-glazed first-floor window is located directly opposite the flank wall of the proposal. The top of this window is directly below the eaves of No 5 and therefore it would continue to receive light from above the proposed extension. My impression was that this window does not serve a main habitable room. No outlook would be lost and I consider that any limited loss of light arising from the proposal would have no material harm on living conditions.

10. At ground floor level the garage is alongside the obscure-glazed side panels of a recessed front porch. The porch also receives light through narrow windows alongside and within the door and a transom window. The proposal would have no effect on the outlook from the porch and would have very limited effect on light reaching the porch.

11. On this issue I conclude that the proposal would not result in a material loss of amenity to the occupiers of No 5 and would not conflict with LP Policy QD27 (Protection of Amenity).

### **Conclusion**

12. Taking account of all matters I have concluded that the proposal would not be harmful to the character and appearance of the area or the living conditions of the occupiers of No 5 Berriedale Avenue and that the appeal should succeed.

13. I have imposed the normal conditions controlling the commencement of development and identifying the approved drawings. In order to achieve a satisfactory appearance I have imposed a condition requiring that the external materials must match those of the host building.

*Clive Tokley*

INSPECTOR







## Appeal Decision

Site visit made on 3 April 2017

by **Clive Tokley MRTPI**

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

Decision date: 12<sup>th</sup> April 2017

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### **Appeal Ref: APP/Q1445/D/17/3169337**

### **86 Downland Road, Brighton, BN2 6DJ.**

- 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 Shazia Quisar against the decision of Brighton and Hove City Council.
  - The application Ref BH/2016/05638 dated 30 September 2016 was refused by notice dated 5 December 2016.
  - The development proposed is rooms in roof with side dormers and front and rear gable windows.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the proposal on the character and appearance of the host dwelling and the area.

### **Reasons**

3. Downland Road runs roughly west to east within a residential area on rising land at the western end of Woodingdean. The appeal property lies at the right-angle junction between Downland Road and Seaview Road which slopes down to Warren Road to the south.
  4. The north side of Downland Road is fronted mainly by bungalows of a similar design and contrasts with the south side where there is a variety of houses and bungalows resulting in a varied frontage. An exception to this occurs at the junction with Seaview Road which is flanked by three similarly-designed detached houses to the west and two to the east. The appellant points out that the dwellings on each side of the Seaview Road junction are no longer identical; however their original form and proportions are retained.
  5. No 86 Downland Road lies at the apex of the junction which results in its east side elevation, which is parallel to Seaview Road, being clearly in view from the east. Seaview Road is fronted by a range of bungalows, chalets and two-storey houses. The slope of the land to the south of the appeal property, together with
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the bungalow on the neighbouring plot, result in the rear elevation of No 86 being prominently in view up the hill from Seaview Road.

6. The proposed increase in pitch and height of the roof would increase the prominence of the appeal property. From Downland Road it would appear out-of-place within the group of similarly proportioned houses on its southern frontage. The east-facing dormer window would be a bulky addition that would dominate the roof. Its hipped roof design would be alien to the form of the host dwelling and it would pay no regard to the design and fenestration of the house. From Seaview Road the proposal would appear as a poorly-proportioned and bulky addition that would intrude into the skyline at the top of the hill.
7. The proposal would fail to have regard to the guidance in the Council's *Supplementary Planning Document – design guide for extensions and alterations* (SPD12). This indicates, amongst other things, that dormer windows should be kept as small as possible and clearly be subordinate additions to the roof and set appropriately in the roof space well off the sides and ridge.
8. I consider that the proposal would be materially harmful to the character and appearance of the dwelling and the street scenes of both Downland Road and Seaview Road. The proposal would conflict with Policy QD14 of the *Brighton and Hove Local Plan 2005* which indicates that extensions should be well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area.
9. The appellant has submitted letters setting out the medical circumstances of her daughter but there is no indication as to how the proposal would assist in alleviating her condition. I understand the appellant's wishes to improve the home environment for her daughter but personal circumstances will seldom outweigh the harm to public interests that may arise. I have seen no evidence to indicate that the significant harm that I consider would be caused to the character and appearance of the area would be outweighed by the benefit to the appellant's family.

### **Conclusion**

10. I have had regard to the personal circumstances of the appellant; however taking account of all matters I have concluded that the proposal would unacceptably harm the character and appearance of the host dwelling and the area and that the appeal should not succeed.

*Clive Tokley*

INSPECTOR

## Appeal Decision

Site visit made on 10 April 2017

by **L Gibbons BA (Hons) MRTPI**

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

Decision date: 20 April 2017

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### **Appeal Ref: APP/Q1445/D/17/3169240** **70 St Georges Road, Brighton BN2 1EF**

- 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 Lucie Barat against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/05784, dated 20 October 2016, was refused by notice dated 14 December 2016.
  - The development proposed is a rear lower ground floor single storey extension, rear roof terrace, alterations to fenestration to front elevation.
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### **Decision**

1. The appeal is allowed and planning permission is granted for a rear lower ground floor single storey extension, rear roof terrace, alterations to fenestration to front elevation at 70 St Georges Road, Brighton BN2 1EF in accordance with the terms of the application, Ref BH2016/05784, dated 20 October 2016, subject to the conditions set out below:
  - 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: Elevations Proposed D-01; Floor Plans Proposed D-01; Floor Plans Proposed D-02; Sections Proposed D-03; Elevations and sections Proposed D-04; Sections Proposed D-05; Elevations Proposed D-06A; Floor Plans Proposed D-07 and Location and Block Plan.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) The privacy screen along the width of the terrace's rear elevation hereby permitted shall be installed prior to first use of the terrace, shall be obscure glazed and measure 1.8 metres above the floor of the terrace to which the screen is installed, and thereafter be permanently retained as such.

### **Main Issue**

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of the East Cliff Conservation Area.
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## Reasons

3. The appeal site is located within the East Cliff Conservation Area. The area contains a number of tall substantial residential buildings particularly towards the sea front. However, St Georges Road on which the appeal site is located has a more domestic scale and a somewhat commercial character due to the number of shops and services. The prevailing built form here is terraces of two or three storeys. The design of buildings varies somewhat and includes some modern contemporary designs.
4. The appeal site is the middle of a terrace of three properties. The individual properties have been altered on the front elevation and their features are not very symmetrical. Indeed, the series of buildings is not referred to as being a uniform group within the East Cliff Conservation Area Character Statement 2002 as are other groups of buildings. The main features retained are the parapet elements and the overall proportions of the buildings.
5. I have been referred to the Council's Supplementary Planning Document Design Guide for Extensions and Alterations (SPD) 2013. This provides guidance on rear, side and infill extensions. The proposal would involve the infilling of the outdoor space at No 70. A single storey flat roof extension would be erected in its place. The existing mono-pitch roof of the outrigger would be replaced with a flat roof with a small terrace at first floor.
6. The Council refers to the loss of the matching and historic L-shape plan form of this group of buildings. However, No 71 St Georges Road has a very tall wall adjoining No 70, and there is no visible mono-pitch outrigger. It appears to have been extended including at first floor. The shape of the original plan form has already been considerably altered in this respect. Due to the layout of the rear of the properties on St Georges Road and those to the south this presents a very enclosed rear space. There may be a very small number of properties backing on to St Georges Road which may be able to see parts of the roof form but views would be limited. Furthermore, the rear elevation and outrigger is not seen from the road or other potential public vantage points. The layout presents no opportunities to appreciate or understand the plan form of the buildings.
7. The main roof pitch and other roof features cannot be seen from the street and the angles of chief views from the street generally present the roof as flat in appearance. I accept that there would be a loss of the mono pitch roof of the outrigger. This would unbalance somewhat with No 69. However, this would not be so significant having regard to the very enclosed nature of the rear elevations. The proportions of the extension would be consistent with that of the main building and the outrigger. In addition, the main roof features and shape would be retained.
8. Given that there has already been a significant loss of the original plan form of the whole group of buildings in respect of the changes to No 71, I consider the alterations to No 70 would be acceptable. Furthermore, the front and rear roof forms where they are visible vary considerably and include flat roofs. The scheme would not be out of context or harmful to the roofscape in this respect.
9. The existing rear yard is bounded on all sides by tall walls and it is not a large space. Although the area is south facing and has some open views directly above the impression is generally of a dark and enclosed space, and it is not

particularly usable. To make use of the space the existing occupants have constructed a small sun terrace just below the first floor above the yard. There is no barrier from this to the ground floor of No 68a and there are direct views into the living and outdoor space of No 68a.

10. The proposal would include a large rooflight for the single storey ground floor extension which would allow light into the room. This would be similar to the existing situation for the yard. The provision of the roof terrace would provide a useable replacement for the existing outdoor space. The position of the terrace would not result in any additional or harmful overlooking given the situation with the existing sun terrace. Indeed, it would result in an improvement in privacy for the occupiers of No 68a as there would be screening in place. Given the particular circumstances of this site, I conclude that the loss of the existing outdoor space and the infilling of the yard is justified.
11. I consider that the proposed changes to the front elevation are acceptable taking into account the differences between the three properties and the variety of designs in the immediate street scene. There is no evidence before me which would suggest that the scheme would result in additional noise and disturbance to neighbours.
12. For the reasons given above, I conclude that the proposed development would preserve the character and appearance of the East Cliff Conservation Area. It would not be in conflict with saved Policies QD14 and HE6 of the Brighton and Hove Local Plan (LP) 2005 (retained 2016) and Policy CP15 of the Brighton and Hove City Plan Part One 2016. These amongst other things seek extensions and alterations that are well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area, and should preserve or enhance the character or appearance of the conservation area. It would not be contrary to the general thrust of the SPD. It would not be in conflict with Policy HO5 of the LP which amongst other things seeks the provision of private useable outdoor space.

### **Conclusion and conditions**

13. I have considered the conditions in the light of the tests set out in paragraph 206 of the National Planning Policy Framework, and the Planning Practice Guidance. I have imposed a condition specifying the relevant drawings as this provides certainty. The Council have suggested a condition relating to the height, installation and retention of the roof terrace screen and I agree this would be necessary in the interests of the living conditions of the occupiers and neighbours. A condition is also needed in respect of the materials to match those of the existing building in the interest of the character and appearance of the property and the Conservation Area.
14. For the above reasons and having regard to all other matters raised, I conclude that subject to the conditions set out above the appeal should be allowed.

*L Gibbons*

INSPECTOR



## Appeal Decision

Site visit made on 18 April 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 24<sup>th</sup> April 2017

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**Appeal Ref: APP/Q1445/W/17/3168211**

**139 Lewes Road, Brighton BN2 3LG**

- 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 Laura Dwyer-Smith against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/05800, dated 20 October 2016, was refused by notice dated 15 December 2016.
  - The development proposed is change of use of C3 dwelling house to C4 small house in multiple occupation.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - a) Whether or not the conversion would provide satisfactory living conditions for future occupants;
  - b) The effect of the conversion on the living conditions of occupants of the immediately adjoining properties in relation noise and disturbance.

### Reasons

#### *Standard of accommodation*

3. At the time of my site visit the house was being used as a House in Multiple Occupation (HMO) with accommodation on three floors serving a total of six people. The basement had a bedroom, living room and shower room. The ground floor had two bedrooms, a kitchen and WC and the first floor had three further bedrooms and a WC/shower room.
  4. The bedroom on the lower ground floor is a reasonable size. However, it has one window that looks out on the wall of a lightwell, which is approximately 1m from the window. It therefore has no outlook and feels very dark and enclosed, particularly as the window faces north and there is therefore no access to sunlight. An occupant would be reliant on artificial light at all times to enable them to undertake day-to-day activities.
  5. The shared living room in the basement is also gloomy and enclosed, notwithstanding its size. It has a single window which is at one end of the south facing wall, but it only looks out on another similar lightwell. A mirror has been placed on the east facing wall to reflect light and some sunshine into the room. However, this does not provide the room as a whole with sufficient light; neither
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- does it compensate for the lack of outlook. I have no doubt that the lack of light and outlook would discourage use of the room during the day and for much of the time occupants would rely on artificial lighting.
6. The kitchen is small and from my examination of the drawings appears to be closer in floor area to the Council's estimate of 7.02sqm than the appellant's estimate of 9.98sqm. In my view it could not be used effectively by more than two people at a time. It has limited areas for food preparation and storage and nowhere to sit and eat a meal. Its usable space is further restricted by the need to use the kitchen as a passageway to the WC at the rear of the building, which is also partially blocked by a fridge-freezer. These factors demonstrate that this communal space is completely inadequate to serve the needs of six individuals. Furthermore, its separation from the only other communal space on the lower ground floor compounds these shortcomings. To use the shared living room as a dining area would involve taking food up and down a flight of stairs. It is therefore not an attractive or convenient place in which to eat meals.
  7. There is a difference of view between the parties regarding the size of the bedroom on the first floor above the kitchen. Regardless of the precise measurements, I consider it to be a small room. Its usable space is reduced by the presence of two small alcoves. This makes it difficult to accommodate furniture and reduces the amount of circulation space. In addition, the only window looks directly towards the rear of the dwellings in Connaught Mews. The proximity of the rear windows in these houses to this bedroom window results in inter-visibility between the rooms, adversely affecting the privacy of the occupants of both. These factors combine to create a poor standard of accommodation for the occupant.
  8. I note that the Council has issued an HMO license for the property. It therefore meets the minimum standards of accommodation fit for human habitation relating to fire safety and access to the basic facilities of a kitchen, bathroom and toilet. However, the planning system has a wider responsibility for ensuring that the quality of accommodation provides more than the bare minimum. My assessment is therefore not confined to issues such as the size of the rooms, but also the extent to which the accommodation provides a suitable environment in which to undertake a range of day-to-day activities. In this case I find the kitchen is cramped; the first floor bedroom is small and lacks privacy, and both rooms on the lower ground floor are dark and enclosed.
  9. For these reasons I conclude that the house provides a poor standard of accommodation which is harmful to the living conditions of the occupants. In this respect the change of use is contrary to saved Policy QD27 of the Brighton & Hove Local Plan, which seeks to protect residential amenity.
  10. In coming to this view I have had regard to other appeal decisions<sup>1</sup> that have been brought to my attention. However, although I do not have full details of those proposals, it is apparent from the Inspectors' decisions that site specific issues of each case have been taken into account when reaching their conclusions. They are therefore not directly comparable with the appeal proposal, which I have determined on its individual planning merits.

*Living conditions of neighbours*

11. The appeal site lies within the Hanover and Elm Grove ward, part of the city which is subject to an Article 4 Direction removing permitted development rights to change the use of a dwellinghouse (Class C3) to an HMO (Class C4). Policy CP21

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<sup>1</sup> APP/Q1445/A/14/2214317, APP/Q1445/W/16/3146828 and APP/V2004/A/14/2228463



of the Brighton & Hove City Plan Part 1 (the City Plan) seeks to actively manage the location of new HMOs in order to ensure mixed, healthy and inclusive communities. Consequently, applications for changes of use to an HMO will not be permitted where more than 10% of dwellings within 50m of the application site are already in HMO use.

12. In this case the number of HMOs within a 50m radius is 8.96%, according to the Council and 9.47% according to the appellant. There can be, therefore, no objection in principle to the change of use even if the unauthorised use at No 139 began after the introduction of the Article 4 Direction. Nevertheless, the Council contends that whilst the amenity of the wider area may not be harmed the impact on the amenity of immediate neighbours may remain.
13. I accept that the use of the property as a six bedroom HMO would be likely to result in additional comings and goings, and a more intensive use than as a family home. However, other than anecdotal evidence about noise, anti-social behaviour and a photograph of recycling and refuse boxes outside the front door, there was nothing to convince me that the use of this house as an HMO has led to an unacceptable deterioration in residential amenity for occupants of the adjoining properties.
14. The appellant provided extracts from various appeal decisions<sup>2</sup> in support of her application. I do not have sufficient details of any of those schemes to make meaningful comparisons with the appeal proposal. Nevertheless, I accept that in order for a scheme to fail there must be sufficient supporting evidence to support the reason for refusal. In these other cases the Inspectors concluded that such evidence was not presented. Similarly in this case, in the absence of definitive evidence, I am not persuaded that the use of the house as a small HMO has resulted in material harm to the living conditions of neighbours.
15. I conclude that the change of use has not resulted in unacceptable noise and disturbance for neighbours and in this respect the proposal would comply with saved Policies QD27 and SU10 of the Local Plan, which seek to protect residential amenity and minimise noise nuisance. In addition there is no conflict with Policy CP21 of the City Plan.

## **Conclusions**

16. The proposal would not result in an over-concentration of HMOs in the Hanover and Elm Grove ward of Brighton. There is therefore no objection in principle to the use of the property as an HMO and I am satisfied that its use by six occupants would not result in material harm to the living conditions of neighbours. However, the absence of harm is not a positive factor in favour of the development.
17. On the other hand I have concluded that the use of the house as an HMO results in a poor standard of accommodation which is harmful to the living conditions of the occupants. For this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Sheila Holden*

INSPECTOR

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<sup>2</sup> APP/Q1445/A/14/2214205; Extracts from 2116026, 2164766, 2167184 and 2143903 (full appeal references were not provided)



## Appeal Decision

Site visit made on 14 March 2017

**by Kevin Gleeson BA MCD MRTPI**

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

**Decision date: 25 April 2017**

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**Appeal Ref: APP/Q1445/W/16/3165230**

**Longley Industrial Estate, New England Street, Brighton BN1 4GY**

- 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 David Christian, Maplebright LLP against the decision of the Brighton and Hove City Council.
  - The application Ref BH2015/04474, dated 10 December 2015, was refused by notice dated 14 June 2016.
  - The development proposed is change of use from light industrial and warehouse trade counter units (B1c and B8) to offices (B1a) together with external building improvements.
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### Decision

1. The appeal is allowed and planning permission granted for change of use from light industrial and warehouse trade counter units (B1c and B8) to offices (B1a) together with external building improvements at Longley Industrial Estate, New England Street, Brighton BN1 4GY in accordance with the terms of the application Ref BH2015/04474 dated 10 December 2015 subject to the conditions in the schedule at the end of the decision.

### Main Issues

2. The main issues are:
  - whether the proposed development provides an acceptable use for the site;
  - the effect of the proposed development on the existing road network in the vicinity of the site; and
  - whether the proposed development makes appropriate parking provision for disabled people.

### Reasons

#### *The Use of the Site*

3. The appeal site is located on the eastern side of New England Street with Eldon Place providing the northern and eastern boundaries to the site. Due to a change in levels across the site the western elevation appears as approximately two storeys whilst the eastern elevation is approximately four storeys. Vehicular access is available to both the western and eastern frontages. The building is currently used for light industrial and warehousing purposes.
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4. Policy DA4 of the Brighton and Hove City Plan Part One (the City Plan) identifies the appeal site as being within the New England Quarter and London Road Area. This establishes a strategy which provides for the creation of a major new business quarter in this area with new office floorspace as a priority.
5. Part C of Policy DA4 states that Strategic Allocations are for provision across five sites for 20,000sq m of net additional B1a and B1b floorspace and 165 residential units through the implementation of extant commitments for B1 floorspace and the mixed use development of the five sites. The appeal site forms one of the sites, identified as Trade Warehousing (Longley Industrial Estate) with the indication that 3,000sq.m of space should be provided as a minimum.
6. Part C goes on to state that proposals will be assessed against a number of policies and guidance and specific criteria including the minimum B1a / B1b floorspace indicated. A further criteria is that an appropriate mix of uses including residential (C3) will be permitted.
7. Although there is a need for residential development in the area, the appeal site was only seen as having potential to contribute 10 dwellings in the City Plan Urban Capacity Site Assessments with 80 units on the neighbouring Vantage Point site whilst the Strategic Housing Land Availability Assessment also identified the two sites together as having potential for 90 units. However, Supplementary Planning Document 10: London Road Central Masterplan identifies the appeal site as having potential for a tall building of approximately 11 storeys high which could indicate greater residential capacity.
8. The requirement within Part C for a mixed use development does not specify the amount of residential accommodation but requires the five sites covered by that part of the policy together to provide 165 residential units. As the four other sites are still to be redeveloped there remains the possibility that the residential requirement of the policy will be addressed and the overall policy objective met. In addition, the appeal scheme's provision of in excess of 6,000sq.m of new office floorspace far exceeds the requirement of the policy and would potentially see jobs increased from approximately 50 to 500. This is a significant benefit particularly as noted in the supporting text that the priority for the five sites is that an appropriate amount of new office floorspace is delivered.
9. With refurbishment of the building rather than redevelopment of the site the opportunities for residential development are limited. Furthermore, I consider that the policy requirement to achieve a high quality of design and incorporate active uses at ground floor level would be met through the proposed changes to the elevations. Improvements to the setting of the building through new hard and soft landscaping would improve the public realm whilst connectivity would be improved through a range of transport measures described below and secured through a signed and dated Section 106 Agreement. Similarly the proposal would meet the requirement of Policy DA4 to secure training for local people through the Section 106 agreement.
10. Consequently, on balance I find that the proposal provides an acceptable use for the site with clear benefits which outweigh the limited conflict with Policy DA4 of the City Plan arising from a lack of residential development.

*Effect on the Local Road Network*

11. Policy CP9 of the City Plan aims to promote measures to support sustainable forms of transport in order to reduce the impact of traffic and congestion.
12. By virtue of the increase in the number of people employed on site the proposed development would considerably increase the number of trips associated with the development. The scheme makes no specific on-site provision for vehicle parking apart from disabled parking bays whilst 74 cycle spaces are proposed. However, the site is located in a highly accessible city centre location and surrounding roads are subject to on-street parking controls.
13. Moreover, the Section 106 agreement provides for a contribution of £123,700 as a sustainable transport contribution, serving to mitigate the impact of any additional trips arising from the development. It would provide for the needs of those accessing the site on foot, by bicycle or using public transport including through improvements to the public realm locally and cycle and pedestrian route and facility improvements. A Travel Plan would also be secured through a planning condition.
14. On the basis of these proposed measures to promote sustainable transport modes and the lack of any evidence from the Council in support of the claim that the traffic generated by the proposed development could not be accommodated within the constraints of the existing road network I find that the proposal would not result in a traffic impact which would be contrary to the requirements of Policy CP9 of the City Plan.
15. Moreover, there would be no conflict with the Council's Supplementary Planning Document 14: Parking Standards, October 2016 (SPD14) which indicates that within the central area provision should be made for disabled user parking only. In addition there is no evidence that the transport impact of the proposed development would be severe, which, according to paragraph 32 of the National Planning Policy Framework is the basis on which developments should be refused on transport grounds.

*Parking Provision for Disabled People*

16. The Council's third reason for refusal referred to the previous parking standards set out in Supplementary Planning Guidance – Parking Standards: SPGBH4. This has now been superseded by SPD14. SPD14 states that in determining the appropriate provision of disabled car parking consideration should be given to the likely demand generated by the proposed land use, the overall level of car parking provided, the opportunities to park in the local area and the distance and route from these potential parking locations to the development.
17. The parking standard for B1 offices in this case is for the provision of individual bays for each disabled employee where known plus 2 bays or 5% of total capacity whichever is greater.
18. SPD14 goes on to state that even if no on-site car parking is to be provided suitable levels of on-site disabled car parking must still be provided for the likely users of the development. In most instances a minimum of two spaces should be provided to ensure that alternative provision is available should one bay be in use. Without knowledge of the number of disabled employees as part of the proposed use, and taking account of the site constraints I find the provision of two disabled parking spaces to be acceptable.

19. I therefore find that the proposal would not be contrary to Policy CP9 of the City Plan which seeks to provide appropriately located disabled parking bays for people with mobility difficulties. It would also be in accordance with Policy TR18 of the Brighton and Hove Local Plan, 2005 which requires parking spaces for people with a mobility related disability to be sited closest to the main or most suitable access to the development.

*Conditions*

20. In addition to the standard implementation condition (Condition 1) I have attached a condition specifying the relevant drawings with which the scheme should accord as this provides certainty (2). A condition is necessary to ensure that the identified demand for office development in the locality is met (3) as is a condition that windows on the southern elevation shall be glazed with obscured glass and non-opening to address potential overlooking of a neighbouring site (4). I have imposed a condition to mitigate the impact of noise in order to safeguard the occupiers of neighbouring properties (5).
21. To ensure a satisfactory appearance to the development a condition requiring the approval of materials is necessary (6) as are conditions requiring the approval of highway details in the interests of highway safety (7) and the approval of details of disabled car parking provision to ensure that the development provides for the needs of the mobility impaired (8). Conditions are required to ensure that development makes efficient uses of energy, water and materials (9 and 10) as is a condition to integrate nature conservation and enhancement features within the scheme in the interests of the wider environment (11).
22. A condition is necessary to ensure that landscaping provides an appropriate setting for the proposed development and to ensure that landscaping works are effectively delivered (12) in order to enhance the appearance of the development, as is a condition requiring details of the proposed green walling to be approved in order to contribute to the ecological and visual enhancement of the site (13). I have also imposed a condition requiring the demonstration that the development has achieved Secured by Design standards in the interests of crime prevention (14). A condition to ensure that appropriate provision is made for refuse and recycling storage is necessary in the interests of the wider environment (15). To ensure that the proposed development helps to reduce the amount of vehicular traffic I have imposed a condition in relation to the parking of bicycles and motorcycles (16) and for a Travel Plan to be submitted and approved to promote sustainable forms of travel (17).
23. Planning Practice Guidance advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In this respect it is necessary for condition 6, 7, 8, and 9 to be conditions precedent as they are so fundamental to the development that it would otherwise be necessary to refuse the application.

*Planning Obligations*

24. In addition to the sustainable transport contribution referred to above the Section 106 agreement makes provision for the approval of highway works by the Council and implementation. It provides for a financial contribution of £30,560 towards the Council's Local Employment Scheme which aims to

increase the employment and training opportunities for residents of Brighton and Hove who wish to work in the construction industry. Provision is also made for the developer to adopt an Employment Strategy within which local labour will be sourced with a target of at least 20% of the workforce during construction being residents of Brighton and Hove.

25. I am satisfied that the obligations under Section 106 are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to the development and therefore consistent with Regulation 122 of the Community Infrastructure Regulations, 2010.

**Conclusion**

26. For the reasons set out above, the appeal is allowed.

*Kevin Gleeson*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

|  |              |
|--|--------------|
| Level 01 Plan                          | P0297 012 02 |
| Level 02 Plan                          | P0297 013 02 |
| Level 03 Plan                          | P0297 014 02 |
| Level 04 Plan                          | P0297 015 02 |
| Proposed Site Plan                     | P0297 010 01 |
| Roof Plan                              | P0297 016 01 |
| Proposed Elevations                    | P0297 020 01 |
| Proposed Elevations                    | P0297 021 01 |
| Proposed Elevations (above road level) | P0297 022 01 |
| Proposed sections                      | P0297 030 01 |
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 being obtained from the Local Planning Authority.
4. All windows in the southern elevation shall be obscure glazed and non-opening.
5. The mitigation measures in the Anderson Acoustics Plant Noise Assessment December 2015 received by the Local Planning Authority on 10 December shall be implemented before first occupation of the development hereby permitted and shall thereafter be retained as such.
6. No development shall take place until details and 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. Development shall be carried out in accordance with the approved details.
7. Notwithstanding what is shown on the submitted plans, no development shall take place until detailed drawings of the proposed access treatments, including dropped kerbs and tactile paving (as appropriate) and reinstatement of footway in place of redundant vehicle crossovers have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the details approved prior to the first occupation of the development.



8. No development shall take place until details of disabled car parking provision for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
9. No development shall take place until a BREEAM Building Research Establishment issued Design Stage Certificate confirming that the development is designed to achieve a minimum BREEAM UK Refurbishment and Fit-out 2014 scheme rating of 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.
10. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall not be first occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the development as built has achieved a minimum BREEAM UK Refurbishment and Fit-out 2014 scheme rating of 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.
11. Prior to first occupation of the development hereby permitted details of six compensatory bird and bat boxes including their type, location and timescale for installation shall be 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 prior to first occupation and retained thereafter.
12. Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
  - a) Details of all hard surfacing;
  - b) Details of all boundary treatments, screens/fencing and gates;
  - c) Details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees, and details of any raised planters.

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. Any trees or plants which within a period of five 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.

13. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the proposed green walling including method of attachment and maintenance and irrigation programme have been submitted to and approved in writing by the Local Planning Authority, and shall be implemented prior to the first occupation of the development. The green walls shall thereafter be maintained and irrigated in accordance with the approved details.

14. Prior to the first occupation of the development hereby permitted a Developers Award Certificate or equivalent alternative shall be submitted to the Local Planning Authority to demonstrate that the development meets 'Secured by Design' standards.
15. Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
16. Prior to first occupation of the development hereby permitted, details of secure cycle and motorcycle parking facilities including cycle and motorcycle shelters 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.
17. Within three months of the date of first occupation, a Travel Plan for the development shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.

Document is Restricted

