



**Brighton & Hove
City Council**

Planning Committee

Title:	Planning Committee
Date:	21 June 2017
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 4AH
Members:	<p>Councillors: Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morris and Russell-Moyle</p> <p>Co-opted Members: Jim Gowans (Conservation Advisory Group)</p>
Contact:	<p>Penny Jennings Democratic Services Officer 01273 29-1065/29-1354 planning.committee@brighton-hove.gov.uk</p>



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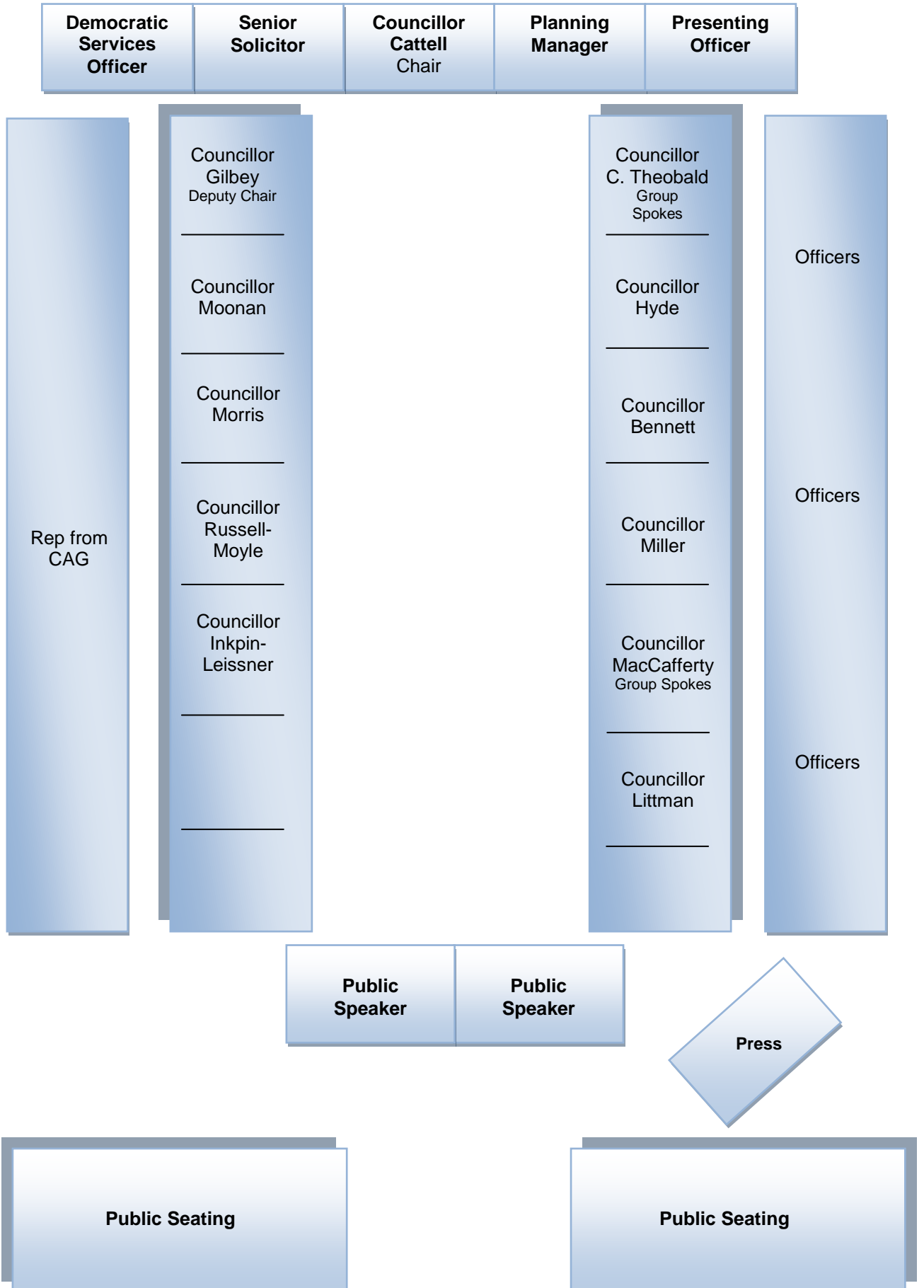
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Democratic Services: Planning Committee



AGENDA

1 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

2 MINUTES OF MEETING HELD ON 12 APRIL 2017

Minutes of the meeting held on 12 April 2017 (copy to be circulated separately)

3 MINUTES OF THE PREVIOUS MEETING

Minutes of the meeting held on 10 May 2017 (copy to be circulated separately).

4 CHAIR'S COMMUNICATIONS

5 PUBLIC QUESTIONS

Written Questions: to receive any questions submitted by the due date of 12 noon on 14 June 2017.

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

7 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 BH2016/02663 -1-3 Ellen Street, Hove - Full Planning 1 - 48

Demolition of existing commercial units (B8) and erection of buildings ranging from four storeys to seventeen storeys in height comprising a mixed use development of no.186 residential apartments (C3), 1,988 sqm of offices (B1) and 226sqm of retail (A1) with car parking at basement level.

RECOMMENDATION – REFUSE

Ward Affected: Goldsmid

Ward Affected: Goldsmid

B BH2016/05312 -65 Orchard Gardens, Hove-Full Planning 49 - 90

Demolition of existing buildings and erection of a 5no storey building and basement comprising a mixed use development of offices (B1) on the Ground floor and 23no one, two and three bedroom flats (C3) on the upper floors, 23no car parking spaces (including 3 Disability Spaces), cycle storage and associated landscaping.

RECOMMENDATION – MINDED TO GRANT

Ward Affected : Hove Park

PLANNING COMMITTEE

Ward Affected: Hove Park

MINOR APPLICATIONS

C BH2016/01766 - 76-79 and 80 Buckingham Road, Brighton - Full Planning 91 - 136

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

RECOMMENDATION – MINDED TO GRANT

Ward Affected: St. Peter's and North Laine

D BH2016/02797 -Patcham Service Station,Patcham By Pass,London Road,Brighton -Full Planning 137 - 146

Installation of two car wash bays.

RECOMMENDATION – GRANT

Ward Affected: Patcham

Ward Affected: Patcham

E BH2017/00482 -Brighton College, Eastern Road, Brighton 147 - 158

Erection of a two storey temporary classroom with ancillary temporary two storey changing rooms, single storey temporary toilets & storage unit.

RECOMMENDATION – GRANT

Ward Affected: Queen's Park

F BH2017/00690 -92 Southall Avenue, Brighton - Full Planning 159 - 174

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

RECOMMENDATION – GRANT

Ward Affected: Moulsecoomb & Bevendean

8 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

9 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 175 - 176

(copy attached).

PLANNING COMMITTEE

10 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 177 - 178

(copy attached).

11 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES 179 - 180

(copy attached).

12 APPEAL DECISIONS 181 - 278

(copy attached).

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

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

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

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PLANNING COMMITTEE

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

Date of Publication - Tuesday, 13 June 2017

ITEM A

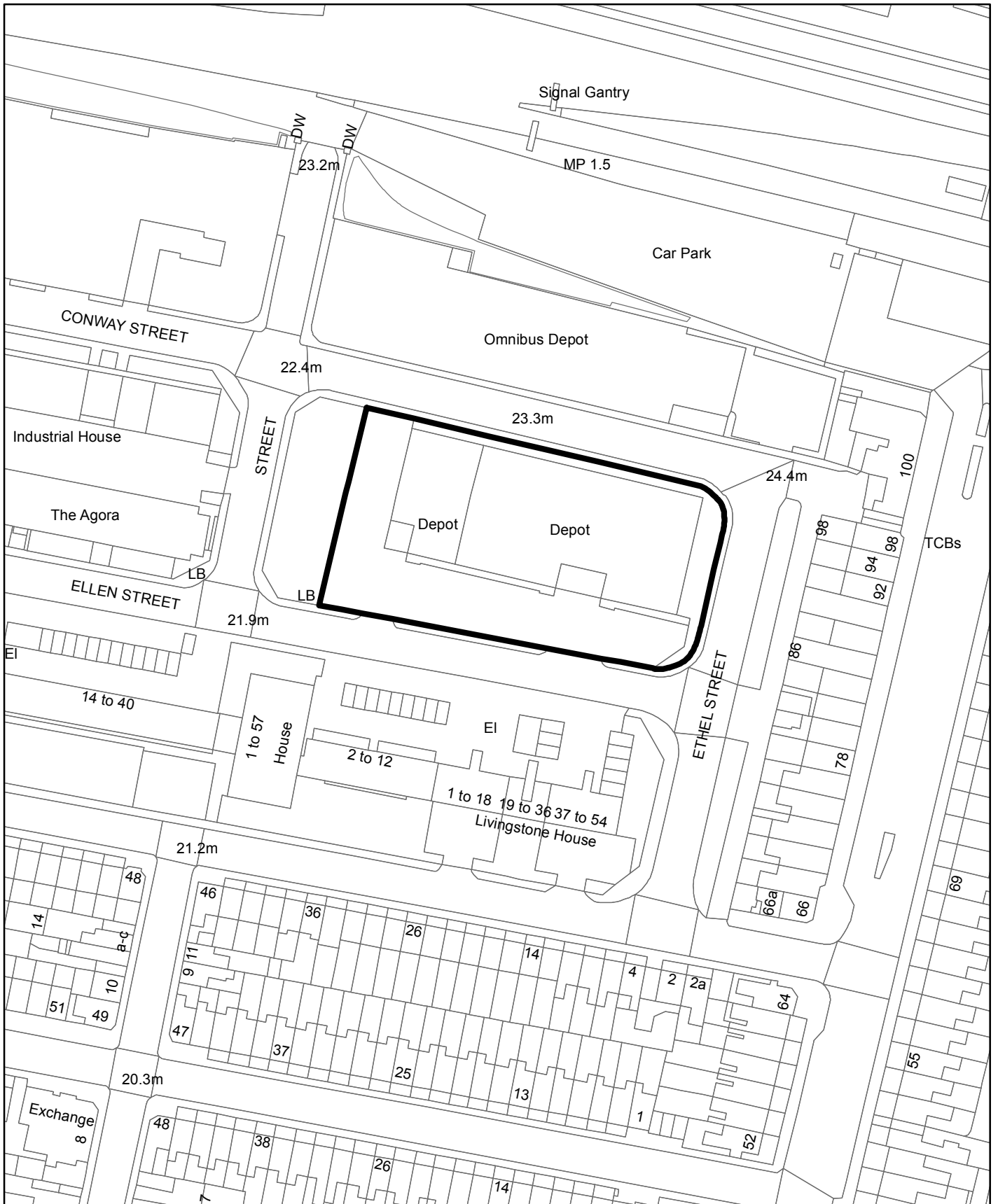
1-3 Ellen Street, Hove

BH2016/02663

Full Planning

DATE OF COMMITTEE: 21st June 2017

BH2016/02663 1-3 Ellen St, Hove



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/02663	<u>Ward:</u>	Goldsmid Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	1-3 Ellen Street, Hove		
<u>Proposal:</u>	Demolition of existing commercial units (B8) and erection of buildings ranging from four storeys to seventeen storeys in height comprising a mixed use development of no.186 residential apartments (C3), 1,988 sqm of offices (B1) and 226sqm of retail (A1) with car parking at basement level.		
<u>Officer:</u>	Chris Swain, tel: 292178	<u>Valid Date:</u>	29.07.2016
<u>Con Area:</u>	Adjacent Hove Station	<u>Expiry Date:</u>	28.10.2016
<u>Listed Building Grade:</u>	Adjacent II	<u>EOT:</u>	
	(Hove Station)		
<u>Agent:</u>	LCE Architects 164/165 Western Road Brighton BN1 2BB		
<u>Applicant:</u>	Matsim Properties Limited Greentrees Farm High Street Balcombe RH17 6JR		

1. RECOMMENDATION

1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below to **REFUSE** planning permission for the following reason:

1. The applicant has failed to provide sufficient affordable housing. The applicant has offered 18.8% affordable housing provision which is significantly below the 25% affordable housing provision that has been independently assessed as being viable by the District Valuer Service. The proposal is therefore contrary to policy CP20 of the Brighton & Hove City Plan Part One.

Informatives:

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

Plan Type	Reference	Version	Date Received
Block Plan	15897-PA-011 A		27 July 2016
Floor Plans Proposed	15897-PA-100 C - BM		8 September 2016
Floor Plans Proposed	15897-PA-101 B - 00		27 July 2016
Floor Plans Proposed	15897-PA-102 B - 01		27 July 2016
Floor Plans Proposed	15897-PA-103 B - 02		27 July 2016
Floor Plans Proposed	15897-PA-104 B - 03		27 July 2016
Floor Plans Proposed	15897-PA-105 A - 04		27 July 2016

Floor Plans Proposed	15897-PA-106 A - 05		27 July 2016
Floor Plans Proposed	15897-PA-107 A - 06		27 July 2016
Floor Plans Proposed	15897-PA-108 A - 07		27 July 2016
Floor Plans Proposed	15897-PA-109 A - 08		27 July 2016
Floor Plans Proposed	15897-PA-110 A - 09		27 July 2016
Floor Plans Proposed	15897-PA-111 A - 10		27 July 2016
Floor Plans Proposed	15897-PA-112 A - 11		27 July 2016
Floor Plans Proposed	15897-PA-113 A - 12		27 July 2016
Floor Plans Proposed	15897-PA-114 A - 13		27 July 2016
Floor Plans Proposed	15897-PA-115 A - 14		27 July 2016
Floor Plans Proposed	15897-PA-116 A - 15		27 July 2016
Floor Plans Proposed	15897-PA-117 A - 16		27 July 2016
Roof Plan Proposed	15897-PA-118 B		27 July 2016
Elevations Proposed	15897-PA-200 B - E		27 July 2016
Elevations Proposed	15897-PA-201 B - S		27 July 2016
Elevations Proposed	15897-PA-202 B - W		27 July 2016
Elevations Proposed	15897-PA-203 B - N		27 July 2016
Elevations Proposed	15897-PA-204 A - SWNE		27 July 2016
Sections Proposed	15897-PA-205 A		27 July 2016
Elevations Proposed	15897-PA-250 B - E		27 July 2016
Elevations Proposed	15897-PA-251 B - S		27 July 2016
Elevations Proposed	15897-PA-252 B - W		27 July 2016
Elevations Proposed	15897-PA-253 B - N		27 July 2016
Sections Proposed	15897-PA-300 A - S		27 July 2016
Sections Proposed	5897-PA-301 A - E		27 July 2016
Sections Proposed	5897-PA-302 A - N		27 July 2016

Sections Proposed	5897-PA-303 A - W		27 July 2016
Elevations and sections proposed	5897-PA-304 A - N		27 July 2016
Elevations and sections proposed	5897-PA-305 A - W		27 July 2016
Elevations and sections proposed	5897-PA-306 A - S		27 July 2016
Elevations and sections proposed	5897-PA-307 A - E		27 July 2016
Elevations Proposed	15897-PA-254 B - INT		27 July 2016

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site sits to the west of Hove Station to the south side of Conway Street and is currently occupied by single storey brick and metal clad industrial sheds with associated car parking. The Brighton & Hove Bus Company is located in the buildings/land to the north of the site and also own the car park to the west end of the site which does not form part of the application site. Three and four storey office buildings exist to the west with mixed commercial buildings beyond. To the south of the site there are ten storey residential blocks which form part of the Clarendon Estate with low rise residential development at the base of the blocks along with garages and car parking. To the east of the site are the rear of properties which front Goldstone Villas the majority of which have single storey additions and garages fronting onto Ethel Street. A number of these have been converted to commercial uses some set out over two storeys. The east side of Ethel Street is occupied by open off street private car parking bays.
- 2.2 The site is located within the Conway Street Industrial Area Strategic Allocation, which is located within the wider policy DA6 Hove Station Area of the Brighton & Hove City Plan Part One.
- 2.3 This site lies immediately to the west of the Hove Station Conservation Area, which adjoins the Denmark Villas Conservation Area to the east. To the north east of the site is the Grade II listed Hove Station, the station forms an architectural and historic important grouping with the adjacent public house at 100 Goldstone Villas, which is included on the council's local list. Each building is contained within the Hove Station Conservation Area.
- 2.4 Planning permission is sought for the erection of a building between 5 and 17 storeys creating a total of 186 residential dwellings (mix of 1, 2 and 3 beds) with basement parking as follows:
- Redevelopment of the 0.401 ha Site to provide 186 residential units (Use Class C3 - 98 1Bed, 70 2Bed, 18 3Bed),
 - 1,988sqm office space,
 - 226 sqm retail floorspace,
 - 67 basement car parking spaces (12 disabled spaces),

- Cycle/refuse storage,
 - Balconies, roof terraces and a communal courtyard with playspace are also proposed.
- 2.5 The proposed density equates to circa 470 dwellings per hectare; this calculation includes the site area occupied by the commercial offices which would slightly increase the density.
- 2.6 Proposed materials are a combination of:
- Brick: yellow/buff stock, red/buff stock and dark grey/buff stock,
 - Metal panels: slate blue and pale turquoise blue,
 - Window frame: slate grey aluminium.

3. RELEVANT HISTORY

BH2017/00152 - External alterations incorporating cladding, revised fenestration, replacement roller shutters and other associated works. Sub-division of Unit 2 to form two units (B8). Currently under consideration.

BH2017/00031 - Certificate of Lawfulness for a proposed change of use from Warehousing (B8) to Office space (B1). Currently under consideration.

BH2016/05841 - Extension of existing building to create an additional unit and change of use from B2 to B1. Currently under consideration.

BH2016/00234 - Change of use from storage and distribution (B8) to car diagnostic servicing and repairs with ancillary MOT testing facilities, reception and offices (B2). (Part retrospective). Withdrawn.

Adjoining site – Land at Goldstone Street

BH2017/01176 - Erection of a 3 storey office building (B1) with 2no disabled parking spaces, bin storage and roof terrace. Currently under consideration.

3.1 Officer Pre-Application Consultation:

The scheme was submitted for pre-application consultation in March 2016. In accordance with Paragraph 187 of the National Planning Framework (NPPF) Officers sought to work proactively with the applicant to secure an acceptable scheme offering extensive advice however after three meetings the design remained substantially unchanged. The Design Review Panel's advice and input was not sought and a Planning Performance Agreement was not taken up either. Ultimately the application was submitted in July 2016 whilst advice from Officers was ongoing.

3.2 Member Pre-Application Presentation:

The scheme was presented to Planning Committee and ward members in March 2016. The following feedback was provided:

- Strongly suggested the scheme be considered by the Design Panel given the scale and Heritage sensitivities.
- Pleased that proposals were coming forward for the redevelopment of this site within the City Plan Development Area 6. The proposals should show they could be integrated within the wider redevelopment of the DA6 Area.

- Pleased with the level of community engagement and welcomed engagement with officers as part of a formal pre-application submission.
- The variation in the heights was supported.
- Welcomed the design approach and pallet of materials, subject to durability, and supported the view that the area can take a bold design.
- Improvements to the public realm were strongly supported and should form part of the submission – the scheme should be about placemaking which members believed the applicant was conscious of with their indicative designs – this should be worked up further in consultation with the Highway Authority to ensure it comes forward.

4. REPRESENTATIONS

4.1 External:

4.2 Neighbours:

Twenty two (22) letters of representation have been received objecting to the application on the following grounds:

- The scheme is overbearing and will have unacceptable impacts on the quality of life for the nearest residents.
- 17 storeys should be resisted, sets a very unwelcome precedent for future phases - 'very tall' as defined by SPG15.
- No wind study or Environmental Impact Assessment has been submitted as required by SPG15.
- The Design and Access Statement (D & A) demonstrates how intrusive the building will be which will be worse at night when lit - no assessment of this has been made.
- Gross overdevelopment at 470 dwellings per hectare.
- Does not meet the City Plan target for housing mix.
- No justification for allowing such a large development without a commitment to 40% affordable housing.
- Concern raised regarding drainage capacity.
- Roof gardens lacking detailed demonstration that they are feasible given the environment and wind speed - food growing very unlikely to succeed and no maintenance plan submitted.
- Planning statement regarding daylighting impact misleading - saying only 20 properties affected however daylight report states 27 in Livingstone House alone will be harmfully impacted in worse case 35% reduction - clarification needed.
- The impact on the lower flats in Livingstone House is completely unjust especially as these residents are likely to vulnerable.
- The assessment of the conservation area impact in the D & A is muddled and opinionated and the impacts have not been fully considered.
- The design disrupts the visual consistence of the surrounding area.
- The materials are a jumble.
- No parking for the commercial element will impact on viability of the units.
- Viability for the retail/cafe element is questioned given the likely levels of sufficient footfall.
- Impact on existing local shopping areas of concern.

- Development should be aimed at local residents at affordable prices.
- Capacity in local schools and nurseries is already limited and they are under significant pressure without the additional demand created by this scheme.
- Insufficient parking.
- Access and parking issues during construction and once in operation - insufficient parking is proposed and this will adversely impact on existing business in the area.
- Noise and pollution during construction.
- The tall building is not a centrepiece and does not create a new hub, it looks like council house blocks,
- The flats do not meet national space standards and are little more than glorified storage spaces or portioned bedsits,
- The contribution to the local community made by the scheme is not clear.
- Consideration should be given to the impact on the existing struggling Southern Rail service.
- 17 storeys out of scale with the area - 9 would be more appropriate.
- Existing traffic and parking problems will be exacerbated.
- High rise development will harm the character of Hove.
- Overshadowing/loss of sunlight caused by the significant scale.
- Out of scale and will dominate the area.
- Solar glare from the high level of glass.
- There is no provision for infrastructure impacts putting further strain on local services such as doctors, dentists, pharmacies, nurseries and schools.
- It will be an eyesore from north of the railway.
- Disruption during construction should be controlled via Constriction Environmental Management Plan including a limitation on working hours.
- No provision of low-cost housing,
 - The proposal to provide private market housing over affordable housing would increase the population of Brighton from inward migration exacerbating the affordable housing crisis,
 - The proposal does not address the housing needs of the City,
 - Evidence that failed housing developments ruin lives directly or indirectly,
 - Insufficient infrastructure improvements are proposed for a development of this scale,
 - Traffic study is inadequate,
 - The proposal would significantly worsen traffic problems in the area,

4.3 **Eight (8)** letters of representation have been received supporting the application on the following grounds:

- Will provide much needed regeneration to the centre of Hove and will be a boost for local residents as well as Brighton.
- Ellen Street is very run down and this is an exciting redevelopment opportunity.
- Will provide a new centre for Hove capable of higher densities and taller buildings.
- Support the design principles.

- Tall-point acts as a distant marker for the new centre,
- Stylish contemporary block would offset the existing unattractive blocks,
- Offices, cafes, shops will bring people and vitality to the area.

4.4 **Two (2)** letters have been received with general comments on the following,

- There is a lack of community spaces. Beyond retail, residential and offices, it is important to integrate community spaces for leisure, education and the arts. There should also be consideration of how to attract modern and dynamic businesses as future tenants.
- Developments in Brighton and Hove need to have an eye on the employment opportunities for the next generation,
- Concerns regarding ongoing improvements works on the council developments to the south of the site.

4.5 **Hove Station Neighbourhood Forum: Support**

Strongly supports this application, subject to the resolution of significant concerns, particularly regarding the provision of public realm improvements.

4.6 Overall, we believe that the application meets the DA6 policy requirement for a high quality design which will deliver an 'attractive and sustainable mixed use area'.

4.7 Overall we argue that the limited harm to heritage assets will be very substantially offset by a combination of improvements to the public realm immediately west of the Hove Conservation Area and by the sustained investment in the historic buildings themselves, as the 'small business uplift' will be underpinned by the proposed scheme.

4.8 Our position is that with the exception of the proposed new pedestrian route from Conway Street up to Hove Station, all the public realm improvements illustrated in the Design and Access Statement and those further specified by the Highway Authority, should be delivered as part of the scheme, as they will both provide offsetting heritage benefits, improve the townscape of the area immediately adjacent to the scheme boundary, and avoid adverse knock-on effects that would place a burden on further phases of the redevelopment of the Conway Street Strategic Allocation.

4.9 In sum, and subject to a positive outcome of the ongoing negotiations about developer contributions, the Forum takes the view that the scheme will substantially meet the strategic priorities of DA6 policy.

4.10 The Forum strongly recommends that

- Subject to the delivery of public realm and other improvements this application is approved as an exceptional case, given its capacity to kickstart the regeneration of Hove Station Quarter; and
- The Council draws on the One Public Estate Programme for the resources needed to establish joint stakeholder working which will provide appropriate

planning guidance for the Conway Street Strategic allocation, as a component of the Hove Station Neighbourhood Plan.

4.11 Hove Civic Society: Support

- Welcome the proposal which will rejuvenate this neglected area.
- The courtyard development and extensive greening of the development along with the variety of materials.
- Opportunities offered by the developer for much needed public realm improvements to the rear of the Hove Station Conservation Area are welcome.
- The scale at 17 storeys and varying roofscape is also supported.
- The impact on the Station is acceptable and the benefits of the scheme far outweigh the impact.

4.12 Regency Society of Brighton and Hove: Support

- The first piece in a jigsaw puzzle that hopefully will result in the comprehensive redevelopment of the derelict area to the south of Hove Station.
- The architects have adopted a deliberately heterogeneous approach so that the development appears as a set of disparate but compatible parts, both in terms of scale and materials.
- This offers visual excitement and will serve as an urban marker (stadtkrone) to indicate the location of Hove Station from afar.
- The architects have exploited the variation in heights to incorporate extensive greening, both vertically and horizontally
- We hope that it will be the first of a number of such developments in the immediate area.

4.13 Conservation Advisory Group: Support

The Group recommended approval of the application although there were some concerns about the height of the tallest building. They commended the high quality materials proposed for the scheme and the fact that it is designed so that the flats all have access to green space. Finally the Group noted the poor quality of some of the images included for the scheme on the council website. Paper versions give a better impression of long distance views but will not be available to most members of the public.

5. CONSULTATIONS

5.1 County Archaeologist: No objection -

The site is not within an Archaeological Notification Area and as it appears that all historic buildings of any potential significance have been removed and below ground potential will be low due to past impacts no further comments are to be made in this case.

5.2 Southern Gas Networks: No objection -

Exact locations of gas pipework needs to be determined by the applicant. Low/medium/intermediate pressure gas main exists near the site. No mechanical excavations shall take place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. Confirmation using hand dug trial holes should be made.

- 5.3 **Brighton & Hove Archaeology Society:** No objection -
The Brighton and Hove Archaeological Society are unaware of any archaeological deposits that are likely to be affected by this development.
- 5.4 **Sussex Police:** No objection -
The scheme is supported in general terms as the development seeks to enliven this area of the City with increased levels of activity and movement,
- 5.5 **UK Power Networks:** No objection.
- 5.6 **Environment Agency:** No objection -
The site lies on the Tarrant Chalk, a Principal Aquifer and within Source Protection Zone 2 (SPZ2) and is very sensitive for ground water. Contamination may be present at the site as a result of its historical uses. Any contamination present may pose a risk to groundwater underlying the site. The development of the site, including the use of infiltration drainage systems such as soakaways and penetrative foundation methods such as piling, could result in the mobilising of contaminants at the site and the creation of preferential pathways for the pollution of groundwater.
- 5.7 Conditions are required to ensure that the risks to groundwater from the proposed development are adequately assessed, that any remediation necessary is carried out and verified, and that the detailed proposals for surface water drainage and foundation methods pose no unacceptable risks to groundwater. Suggested conditions relate to contaminated land site investigation and remediation, infiltration of drainage systems and piling methods.
- 5.8 **Southern Water:** No objection
All existing infrastructure should be protected during construction with no excavation, tree planting or mounding being carried out within 4 metres of the public water main without consent. Any public sewer found during construction shall be surveyed before any further works commence on site.
- 5.9 Southern Water can provide foul sewage disposal to the development however a formal application is required for connection. There is no additional capacity for surface water disposal and additional infrastructure is required to support the development to avoid the risk of flooding, unless it can be demonstrated that flows will not increase over the existing flow. A condition is recommended to seek details of foul and surface water disposal along with a condition regarding surcharging of the public sewage.
- 5.10 **County Ecologist:** No objection
Designated sites and Protected Species:

Given the location, nature and scale of the proposed development, there are unlikely to be any significant effects on any sites designated for their nature conservation value.

- 5.11 The site is predominantly buildings and hard standing and is of relatively low ecological value.
- 5.12 The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. Demolition/clearance should therefore be controlled by condition.
- 5.13 It is considered unlikely that the site supports any other protected species and therefore no other specific mitigation is required. If protected species are encountered during demolition/construction, work should stop and advice should be sought from an ecologist on how to proceed.
- 5.14 Mitigation Measures/Enhancement Opportunities:
In addition to the recommended mitigation measures, the site offers opportunities for enhancement. Opportunities include the use of species of known value to wildlife within the soft landscaping scheme, green roofs and the provision of bird boxes. Where possible, native species of local provenance should be used. Green roofs should be chalk grassland to support Biosphere objectives. Given the location and the proposed height of the building, it is recommended that a peregrine box is provided.
- 5.15 The proposed development is therefore unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and Natural Environment and Rural Communities Act.
- 5.16 **Internal:**
- 5.17 **Environmental Health:** Initial Response: Objection:
- 5.18 Noise and vibration:
The noise report (labelled '1 draft' from Acoustic Associates Sussex Ltd) whilst containing an acceptable conclusion, is limited to road and rail noise and vibration.
- 5.19 Consideration needs to be given to:
- Noise, vibration (and dust) control during both demolition and construction phases (usually part of a Construction Environmental Management Plan, see below);
 - Deliveries, loading and unloading and vehicle movements, including buses and lorries from existing commercial units and existing car park on site;
 - The effect of noise from transformers, plant rooms, mechanical ventilation, lift gear and etc.

- The effect of noise from the commercial units - air handling equipment including kitchen extractors and air conditioning units, smoking area and outdoor seating noise sources;
- Noise from cars entering and leaving the basement, including security door operation;
- Noise of deliveries and waste collection for the commercial/residential units;
- Noise management of communal garden, play space and balconies as well as roof gardens;
- Noise from the office roof area, including possible use for events e.g. outdoor cinema.

5.20 These issues would need to be assessed prior to determination as there are too many variables to be able to condition details whilst ensuring protection of neighbouring amenity. The report says that careful positioning of bedrooms to avoid sleep disturbance will be necessary. Ideally like-for-like uses should be placed above/below each other e.g. a bedroom adjacent to another bedroom. Positioning of noise sensitive rooms alongside bin stores, plant rooms, car park entrance, etc should be avoided however across the development this principle has not been applied.

5.21 Construction Site Noise:

The site has a number of residential and commercial receptors in close proximity. The build will likely be phased and once some parts are built, may become noise receptors; all require protection during the build.

5.22 The mitigation measures to reduce noise levels from the construction are required. It is anticipated that a prior working agreement through section 61 of the Control of Pollution Act 1974, which allows the City Council to set hours, and conditions necessary for the build with the aim of protecting local residents will make an application. This may be achieved through an undertaking in the section 106 phase.

5.23 In addition a Construction Environmental Management Plan (CEMP) is also recommended to agree working practices during construction in order to minimise disruption to neighbouring properties and occupiers.

5.24 Potential Land Contamination:

It is apparent that there are potential sources of contamination within the site boundary and surrounding area. I would add that Council records show a variety of uses on the site over the years including:

1. Blacksmith and farrier at 34 Conway Street (1896-1914);
2. Motor vehicle garage repairs, fuelling, cellulose spraying (1949-1974);
3. Engineering, including sheet metal working at 14A and 18 Conway Street (circa 1949).

5.25 The conclusions made in the Ashdown report are preliminary. It is recommended that a full desk top study documenting all the previous and existing land uses of the site and adjacent land be undertaken. This would include 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. This desktop survey would be the minimum information necessary prior to determination. The need for further work is recognised in the Ashdown report.

5.26 Lighting:

A scheme for lighting would need to be agreed by condition to ensure neighbouring amenity is protected.

5.27 Further Response: No objection

The scheme has been revisited and notwithstanding the concerns outlined above it is considered that the objection can be withdrawn subject to a very stringent set of conditions including measures for soundproofing, hours of use, land contamination (including asbestos), lighting, noise management plan, a CEMP, odour and plant controls and deliveries.

5.28 **Arboriculture: Initial Response: Object:**

Summary:

The site contains only 7 trees of which only 5 provide much in the way of public amenity value. The proposal submitted contains little in the way of soft landscaping and would be a lost opportunity to secure much needed greenery into this area should consent be granted. In view of this the Arboricultural Section recommends that this application is refused.

5.29 Main comment:

This application had been submitted with a brief arboricultural report with details on the 7 trees on site, the content of which we are in part agreement with. Two trees have been identified as being poor and felling is recommended and this is not contested. The remaining 5 trees (London Plane) are recommended for temporary relocation and this is not supported. These trees are now well established and have not been root pruned to aid lifting and relocating. Their chance of satisfactory reestablishment is therefore not good. The proposed new scheme has no suitable location for this type of large tree and if it had this would be best achieved by purchasing new container grown specimens that would suffer less transplanting shock.

5.30 The landscaping scheme details provided appear to be rather fragmented with little provision for any planting that would be substantial or offer much amenity to the wider area. The existing London Plane has real potential to add a great deal to the local treescape, it already provides much needed greenery to a rather harsh local street scene and they could develop into very large specimens.

5.31 Further response:

The landscaping scheme details provided appear to be poorly thought out and pay scant regard to the local conditions. This is highlighted in the use of Magnolia grandiflora to be planted as a street situated tree. This species is very attractive but highly unsuitable being acid soil loving; the majority of the city is highly alkaline and therefore Magnolia grandiflora is seldom found. Whilst the rest of the planting may well thrive and be suitable for local conditions it is all rather small with little provision for any planting that would be substantial or offer

much amenity to the wider area. The existing (off site) London Plane in Ethel Street have real potential to add a great deal to the local treescape, they already provides much needed greenery to a rather harsh local street scene and should develop into very large specimens. It is regrettable that the London Plane trees that were on site have already been removed as these too would have had great potential to add the local street scene.

5.32 The proposed roof gardens outlined in the submitted 3D visualisation are optimistic and are unlikely to be achieved in an exposed location such as this.

5.33 **Heritage: Initial Response: Object**

Summary Comment: It is considered that the proposed development would cause demonstrable harm to the settings of the designated heritage assets of Hove Railway Station and the Hove Station Conservation Area, including the locally listed Station Public House (100 Goldstone Villas). It would also cause some harm to the setting of the Denmark Villas conservation area and some harm to the setting of the locally listed Hove Park. In the case of the designated heritage assets, this harm is considered to be less than substantial under the terms of the NPPF but there are no heritage benefits and only very limited public realm benefits to the proposals that may be weighed against that harm.

5.34 **The Proposal and Potential Impacts:**

The site lies within the area identified in policy CP12 and in SPGBH15 as having the potential to accommodate tall buildings, defined as being over 18m in height (approximately six storeys). Whilst no further guidance has been produced specific to this area, work previously done by officers suggested that this eastern-most block of the overall area should best accommodate medium-rise tall buildings of 6-8 storeys, with taller development of 8-15 storeys on the blocks further to the west. This was to minimise visual impacts on the setting of the listed building of Hove Station and on the settings of the Hove Station and Denmark Villas conservation areas, as well as concentrating the tallest elements as a cluster in the centre of the area as a whole.

5.35 This scheme does not accord with that approach, having tall blocks and one very tall block (over 15 storeys) on this eastern-most block. In the absence of proposals for the blocks to the west it is not possible to see a wider coherent vision for the tallest buildings. Incremental cumulative impact without an overall masterplan for the area is therefore a significant concern. This is rather compounded by this site not including the land at the western end of the block (the bus company car park), which has meant that the tallest buildings are set a little further east than they could otherwise have been.

5.36 It is considered that the key impacts of these proposals on heritage assets are on the setting of the Hove Station conservation and on the setting of the grade II listed Hove Station together with the locally listed public house adjacent. These impacts are closely linked.

5.37 The main visual impacts on the setting of these heritage assets are in medium distance views from Station Approach and Goldstone Villas, as shown in the submitted viewpoints. The new buildings would not directly impinge on the

outline of the Station canopy in these viewpoints but View A8 suggests that the development would be likely to impinge on the outline of the canopy from in front of the café adjacent to the Station. In any case the development, through its scale and bulk, would alter the way in which it is seen in these viewpoints. In addition there would be a substantial visual impact on the outline of the locally listed pub, with its distinctive hipped roofline and detached form, and on the setting of the wider Hove Station conservation area. The area is predominantly low rise and the view of the historic grouping of the Station and the public house in this corner has a traditional, small scale intimacy.

- 5.38 The development would also be partly visible in the winter months above the hipped roofline of the two storey semi-detached houses of the Denmark Villas conservation area in the view from near the junction with Cromwell Road (View A12). Whilst it would not be assertive in this view its intrusion above the roofline in an arbitrary manner would cause some harm to the setting of this small scale and formal residential area.
- 5.39 It is noted that some of the submitted views appear to have been taken from Google Street View. The camera for this is significantly above average eyeline and therefore not a true representation of how the development would be seen from these points. Moreover none of the images appear to be verified views and there is no methodology for their creation. The accuracy of the submitted CGIs must therefore be questioned.
- 5.40 The supporting documents refer to the potential for higher density development around major transport hubs and the opportunity for a tall landmark building to act as a 'beacon' for this new 'quarter'. However, whilst high density development on this site is appropriate in principle, the tallest building (17 storeys) would only be four and five storeys higher than the adjoining 12 and 13 storey elements, whilst the nine storey element at the north-east corner is approximately the same height as the existing Livingston House. The very tall 17 storey element, with its angled roof profile, could potentially be seen in isolation as a dramatic contrast to the traditional buildings in the foreground. However, in conjunction with the height and bulkier massing of the other tall buildings surrounding it and at the northeast corner, the overall effect is of a bulky and intrusive scheme that would form a very dominant backdrop to the distinctive outline of the listed station canopy and the adjacent public house, which constitute a key visual and functional grouping within the conservation area, and would detract from the current intimacy of kinetic views from Station Approach.
- 5.41 The height and massing of the tallest blocks would also be very apparent in views from the locally listed Hove Park, from where the development would rise intrusively above the mature tree canopy and the ridge of existing built development.
- 5.42 The height, profile and massing of the various blocks steps up and down considerably across each elevation and this seems to be an unduly complex massing for a modest-sized single block of regular footprint; a more formal approach to massing and roofline would better reflect and respect the character

of the surrounding context, especially at the eastern end of the block where the site relates closely to the coherent roofline to the Victorian terraces of the Hove Station conservation area. It is considered that the variety of sets backs and projections proposed, together with the variety of materials proposed, would be likely to work better within a simpler massing and roofline.

- 5.43 The Design and Access Statement refers to aspirations for future public realm improvements to Ethel Street and Conway Street but these images appear to be aspirational and no specific improvements appear to have been put forward as part of this application, except for the measures referred to in the text of the Transport Statement, but these measures are mainly to address or mitigate the impacts of the development itself. As such they can only be given very limited weight as public benefits.
- 5.44 It is considered that the proposed development would cause demonstrable harm to the settings of the designated heritage assets of Hove Railway Station and the Hove Station Conservation Area, including the locally listed Station Public House (100 Goldstone Villas). It would also cause some harm to the setting of the designated Denmark Villas conservation area and some harm to the setting of the locally listed Hove Park. In the case of the designated heritage assets, this harm is considered to be less than substantial under the terms of the NPPF but there are no heritage benefits and only very limited public realm benefits to the proposals that may be weighed against that harm.
- 5.45 Further Response:
The reduction in height of both block D (north-east corner) and part of block E by one floor together represent a modest improvement to the proposals, in terms of the scale and massing and the impact on the setting of the Hove Station conservation area, the listed station and the locally listed public house. In View 05 from Station Approach the lower, northern part of Block E would no longer be visible and in both this view and View A8 from Station Approach the tallest element of block E is better silhouetted, thereby simplifying the skyline. The reduction in height of Block D takes it below the ridgeline of the public house in View 05 and View A8 but it remains well above the eaves line in View 05 and therefore still harms the distinctive outline of this building. In View A8 it is Block C that continues to infill this gap between the pub and adjacent terrace, again above the pub's eaves line. It is also the case that in View 05 the lowering of Block D partly reveals Block A behind (though this building would be visually more recessive).
- 5.46 The clarification of the methodology for the production of the views is noted and welcomed, though there are no details of the photography method.
- 5.47 The clarification of the cladding materials is also noted and the change from metal cladding to brick cladding on the lowered Block D is welcomed. Whilst it is noted that only two types of material and five different finishes are proposed it is nevertheless the case that the use of alternating materials from block to block across the elevations creates a very mixed appearance. More crucially the unduly complex massing remains largely unchanged. As stated in the previous comments, it is considered that the variety of sets backs and projections proposed, together with the variety of materials proposed, would be likely to

work better within a simpler massing and roofline. This is especially the case at the eastern end of the site where the site relates closely to the coherent roofline to the Victorian terraces of the Hove Station conservation area. It is noted, as set out in Addendum 1 to the Design and Access Statement, that the surrounding built environment is very mixed but that is not considered to be a positive characteristic in this case and this site offers an opportunity to bring greater coherence to the townscape.

5.48 The inclusion of a detailed public realm plan and a commitment to implementing the public realm improvements as part of the development are very welcome; the public realm proposals are considered appropriate in their approach. This is a clear urban design benefit.

5.49 Despite the amendments it is still considered that the proposed development would cause demonstrable harm to the settings of the designated heritage assets of Hove Railway Station and the Hove Station Conservation Area, including the locally listed Station Public House. It would also cause some harm to the setting of the Denmark Villas conservation area and some harm to the setting of the locally listed Hove Park. In the case of the designated heritage assets, this harm is considered to be less than substantial under the terms of the NPPF. There are public realm benefits to the proposals that may be weighed against that harm but do not in themselves outweigh it.

5.50 **Internal Design Review Panel: Comment**

5.51 Summary comment:

There are welcomed elements and concerns regarding the design of the proposed development. These are outlined in more detail below.

5.52 Suggestions to improve the scheme include:

- Simplification of heights and materials,
- Reduction in the bulk/height of the tallest elements on the western end,
- Careful consideration of how people will move in and around,
- Access and use of the development and
- Delivery of public realm improvements identified in the proposed development.

5.53 The current design approach seems overly complicated and therefore costly and some solutions, such as extensive roof gardens, incompatible with a coastal location subject, among other things, to strong prevailing winds.

5.54 Given the opportunity this development has to set the scene for future redevelopment of the area, it is strongly recommended that development proposals are subject to the city's Design PLACE panel review. The panel review has been set up to assist complex sites such as this, therefore assisting the planning process for all.

5.55 Design approach

The design of the scheme seems to be too complex with too many varying heights, façade configurations and materials. This approach appears costly and

lacks the consistency needed to give the scheme coherence. It is suggested building design and use of materials be simplified.

5.56 There is no clear design justification for the tallest element at the western end in relation to the rest of the scheme and in the context of the area; overall it appears very bulky and out of scale with the rest of the proposed development.

5.57 Street frontage and pedestrian experience

Careful consideration needs to be given to the experience users and visitors will have going through the area and how the non-residential uses can help to animate frontages. There are stretches of blank facades and unclear identification of entrances and access points to the different uses, in particular along Ellen Street. Active frontages around the development should be maximized with access to the various uses made clearer and enabling for overlooking and passive surveillance. There are considerable concerns about the location of the retail unit as it is not in a location where high footfall seems likely. Conway Street would probably benefit from high footfall and one option could be to move the retail unit to that location. One area that perhaps warrants more attention are street trees which might have greater chance of survival if an appropriate tree pit detail was provided. The Trees and Design Action Group documentation could assist with this.

5.58 Focusing on large specie tree such as Elms (we have the international collection of Elms), should also be considered especially to improve the local environment for all users in the long-term and add identity to the area.

5.59 Green walls often fail so proposing one would be ambitious and again costly to any development; is this realistic and necessary.

5.60 Stepped access to Hove Station

The applicant needs to consider in more detail how people, in particular pedestrians and cyclists, will move in, around and across the development. Key access points to the development in general and the potential for the existing stepped access to the station be improved and better connected to the improvements to Conway Street is not properly explored. For instance, there is the potential for a pocket square/arrival space to be created at the bottom of the stairs that could help emphasize and improve access to the station for users. Options for improving the stepped access to provide level access to the station, double height railing adults and children can use a slope for cycles and good public lighting should be considered.

5.62 Funding for public realm needs to be secured.

Public realm improvement is central to the redevelopment of the area. Hence, it is very important that the proper reassurances for delivering public realm improvements are secured. The viability of the location and number of trees is also queried given the lack of information provided.

5.63 Roof gardens.

Look good on the design, however realizing this vision will incur considerable costs and it is questionable whether trees the size indicated on the design are

realistic and appropriate for a seaside location. A focus on allotments would be more pragmatic but any growing medium that has been elevated above ground level should be protected from inclement weather.

- 5.64 Long views and impact on heritage assets.
No verifiable long views provided, making it difficult to assess impact of new development on neighbouring areas and, in particular, historic assets.
- 5.65 Design Review Panel
Given all the concerns raised and the opportunity for this development to set the scene for future redevelopment of the area as a whole, it is strongly recommended that development proposals are revisited and reviewed by the city's Design Review Panel.
- 5.66 This site has great potential and many of the positive ingredients required for this block do exist in the current proposal. Unfortunately the complexity of the submissions and intent has diminished these design elements with less pragmatic choices, as mentioned above.
- 5.67 **Children's and Young People's Trust:** No objection
The level of contribution towards education infrastructure and the number of pupils that are likely to be generated by the development have been calculated. The calculation of the developer contribution shows that we would be seeking a contribution of £261,787.60 towards the cost of primary, secondary and sixth form provision if this development was to proceed.
- 5.68 The primary provision would be likely to be spent at West Hove Infant School, Hove Junior School, St Andrew's Primary School, Brunswick Primary School, Hove Junior School, Holland Road, or West Hove Infant School Connaught Road as they are the closest primary's to the development. These schools currently offer a total of 2,986 places and there are currently 2,793 pupils on roll at these schools. This offers a surplus of just 6% (the majority of which is in the junior year groups) which is required to allow for parental preferences and in year admissions.
- 5.69 With regard to the secondary provision the development is currently in the catchment area for Blatchington Mill and Hove Park Schools. Both of these schools are currently full and therefore it is entirely appropriate to seek a contribution in this respect.
- 5.70 **Economic Development:** No objection
City Regeneration fully supports this application as proposed development responds to key areas of the City Plan Part 1, specifically in respect of much needed housing and quality commercial employment floor space to encourage inward investment to the city and compensate for the loss of office employment space, lost as a result of the introduction of Permitted Development.
- 5.71 If approved, an Employment and Training Strategy will be required, 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 for the demolition (where appropriate) and construction phases is required and full liaison with the Local Employment Scheme Co-ordinator is encouraged at an early stage in order to avoid any delays in site commencement.

5.72 Industry guidelines (CITB) for KPIs based on the value of the development will be utilised in respect of training.

5.73 If approved, in accordance with the *Developer Contributions Technical Guidance, City Regeneration requests a contribution through a S106 agreement for the payment of £59,500 towards the council's Local Employment Scheme.

5.74 **Sustainability:** No objection

Under City Plan policy CP8 the residential elements are expected to achieve the minimum performance standards in energy and water efficiency. The non-residential elements are expected to achieve BREEAM 'excellent' in both the retail and offices. These standards have been targeted by the scheme and therefore the principle sustainability requirement through City Plan policy CP8 has been met.

5.75 Energy efficiency is being addressed by targeting as a minimum the energy efficiency standard of 19% improvement on Part L 2013; renewable energy technologies proposed include PV panels for electricity generation covering 225sqm; high levels of insulation to be specified along with highly efficient low temperature under floor heating systems.

5.76 The scheme is sited in Development Area DA6 Hove Station and since Local Priority 10 of policy DA6 states that decentralised energy systems should be designed so that they are compatible with future connection to a network. This capacity should be secured via a planning condition.

5.77 Recommended conditions

- BREEAM New Construction 'excellent' (for retail element) - post construction
- BREEAM New Construction 'excellent' (for office element) - post construction
- Standard condition for energy and water efficiency (residential)
- Condition to secure capacity for connection to future heat network
- Food Growing as part of Landscaping plans, import of soil to BS 'Top Soil' Standard; inclusion of composting local to roof top allotments.

5.78 **Housing:** Initial Response: Object:

The scheme proposes 188 apartments, consisting of 98 x one beds; 73 x two beds and 17 x three beds. As a scheme of 15+ properties the council's Affordable Housing Brief and policies in the approved City Plan Part 1 support a 40% element of affordable housing on site.

5.79 The developer is required to provide evidence that they are not able to provide this as this provision would make the scheme unviable. A viability appraisal is provided by the developer's consultants Taylor Morum with the application. This looks at four options for affordable housing provision, namely 0% affordable;

10%; 19% and 40% (40% being policy compliant). Their assessment is that, while only 0% is viable based on their costs, they are prepared to offer 10% which equates to 19 units split between 10 units for affordable rent - and 9 for shared ownership sale. An independent viability from the DVS was commissioned in order to assess the proposed scheme and viability as provided. This is awaited at the time of preparing this response.

- 5.80 To be policy compliant this scheme should provide 40% housing which would be 75 units. To meet the Affordable Housing Brief the scheme would be made up of: 41 properties for affordable rent and 34 for shared ownership. 7 of the affordable housing units properties (10%) should meet the wheelchair standard (and 9 units in the scheme overall).
- 5.81 The proposal here is for 19 affordable housing properties currently outlined as 10 to rent (53%) and 9 for shared ownership sale (47%). This is not compliant with the Affordable Housing Brief.
- 5.82 2 of the affordable housing units properties (10%) should meet the wheelchair standard (and 9 units in the scheme overall) - The wheelchair housing is not identified so compliance cannot be confirmed. Wheelchair properties have required standards for the living space area.
- 5.83 To ensure that all new homes developed are of a good standard that is flexible, adaptable and fit for purpose, our revised Affordable Housing Brief (update 1 October 2015) offers support for schemes that meet the new nationally described space standards - across the scheme 25% of flats do not meet the space standards.
- 5.84 Conclusion:
This scheme as proposed does not meet Affordable Housing Brief requirements with regard to the number of units, tenure of units or unit sizes and is therefore not supported by Housing Strategy.
- 5.85 Further Response
- 5.86 Summary
The city-wide Housing Strategy adopted by Council in March 2015 , has as Priority 1: Improving Housing Supply, with a commitment to prioritise support for new housing development that delivers a housing mix the city needs with a particular emphasis on family homes for Affordable Rent . The council has an Affordable Housing Brief based on evidenced housing needs in the city. This response is provided by Housing Strategy to outline where the scheme does and does not meet the Affordable Housing Brief and current policy CP20 regarding provision of affordable housing. CP20 requires 40% of properties to be developed as affordable housing on site in schemes of more than 15 units. Developers are required to prove where it is not viable for them to meet this policy provision.
- 5.87 In this instance the scheme proposes 186 apartments, consisting of 98 x one beds; 70 x two beds and 18 x three beds. As a scheme of 15+ properties the

council's Affordable Housing Brief and policies in the approved City Plan Part 1 support a 40% element of affordable housing on site.

- 5.88 The developer's initial position was that zero affordable housing provision was viable based on their costs, but that they were prepared to offer 10% which equated to 19 units split between 10 units for affordable rent – and 9 for shared ownership sale. Following an initial DVS assessment which assessed 40% as viable they increased this to 18.8%. A further DVS assessment was undertaken, with revised information from the developer, which concluded that a 25% provision on site is viable, with the scheme providing 46 units.
- 5.89 Brighton and Hove is a growing City with 273,000 people in 124,000 homes, with an additional 22,840 households (914 per annum) projected to 2033. Our affordable housing brief reflects the very pressing need for affordable homes in the City. With half of all households in the city earning less than £28,240 per annum, the city's private sector housing is unaffordable for the majority of the population.
- 5.90 In terms of need for affordable rented accommodation: We currently have 1,684 households in Temporary Accommodation, 1,019 of which include children and/or pregnant women, and more than 23,598 people on the joint housing register - 67% of whom are in demonstrable need - Bands A to C. [Source: Housing Statistical Bulletin January to March 2017].
- 5.91 For shared ownership purchase: There are c2400 people who are currently listed as interested in buying a shared ownership property in Brighton & Hove [Source: bpha Help to Buy Agent May 2017].
- 5.92 Tenure Mix
Our published Affordable Housing Brief sets out a broad tenure split of 55% Social Rent or Affordable Rent and 45% Intermediate e.g. shared ownership as a citywide objective.
- 5.93 The DVS assessment here is for 46 affordable homes (25% of all units) which at the above split would provide 25 flats for Affordable Rent and 21 for Shared Ownership. Flexibility can be applied to tenure of this assists with delivery of the scheme. At this scheme the units are spread across five blocks so a block of each tenure may be preferable.
- 5.94 To establish and sustain a mixed, stable and sustainable community and to make best use of the City's whole social housing local lettings plan will be drawn up. Some of the rented units will be targeted at people freeing up larger family homes. When the development is completed the City Council will be able to nominate people from the housing register to any rented properties, and will require a local connection for any properties purchased through shared ownership.
- 5.95 Design

Any affordable housing should be indistinguishable from any market housing. The scheme will need to meet Secure by Design principles as agreed by Police Architectural Liaison Officer.

- 5.96 The council requires 5% of all housing (9 units at this scheme) to meet wheelchair standards and 10% of affordable housing (5 units). Affordable Rent is the preferred tenure for wheelchair accessible properties.
- 5.97 The Council's wheelchair accessible standard requires that it meets national technical standards Part 4 m (3) 2a at build completion (i.e. at time of letting/sale).

5.98 Affordable Units Sizes

To ensure that all new homes developed are of a good standard that is flexible, adaptable and fit for purpose, our revised Affordable Housing Brief (update 1 October 2015) offers support for schemes that meet the new nationally described space standards as outlined below. The affordable units are not confirmed at the scheme but all units currently meet the standards (the developer has amended proposed occupancy to ensure compliance).

Property type	No. of properties	Storeys	AHB space standard M2	1-3 Ellen Street Average size*	Compliant with AHB
1 bed 1 person flat	1	1	39 (inc 1m storage)	40	COMPLIES
1 bed 2 person flat	97	1	50m (1.5m storage)	50 to 65 m	COMPLIES
2 bed 3 person flat	37	1	61m (2m storage)	61 to 74m	COMPLIES
2 bed 4 person flat	33	1	70m (2m storage)	75 to 92m	COMPLIES
3 bed 4 person flat	3	1	74m (2m storage)	83m	COMPLIES
3 bed 5 person flat	13	1	86m (2.5m storage)	89 to 96m	COMPLIES
3 bed 6 person flat	2	1	95m (2.5m storage)	129 to 169m	COMPLIES

- 5.99 The developer has amended the proposed occupancy which makes all units compliant with the standards.

- 5.100 Wheelchair adapted units have not been identified at the scheme. These have additional space standards relating to living space.

5.101 Unit Size and Type

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. Smaller units for affordable rent can be used for those wishing to downsize from existing council accommodation thus freeing up larger family units.

5.102 To be AHB compliant this would require the following mix:

<u>Ellen Street</u>		<u>AHB preferred</u>		<u>Ellen Street @ 25%</u>
<u>All units</u>		<u>mix</u>		<u>DVS assessed 46 units</u>
One beds	98	30%		14 x one bed units
Two beds	70	45%		21 x two bed units
Three bed +	18	25%		11 x three bed units

5.103 This development overall has a high proportion of 1 bed units 98 units / 53% with less 2 beds 70/37% and 3 beds 18/ 10%.

5.104 Flexibility can be applied to the unit mix if it assists with delivery of the scheme. In this this case providing the units in separate blocks may affect the units provided.

5.105 Review Mechanism

The Affordable Housing Brief includes the requirement for a review mechanism to reassess the viability of schemes near completion, where any reduction from policy (i.e. less than a 40% provision) can be reassessed and any increase in the viability position is reflected in an uplift of the contribution, to be paid as a commuted sum.

5.106 This review mechanism outlined in the Affordable Housing Brief will be included in the S106 agreement for the development, in case of any changes to the proposed scheme following the granting of planning permission.

5.107 Conclusion

25% / SUPPORTED – with the following confirmations:

The 46 units / 25% is welcomed (alongside the Review mechanism) but there are issues that need to be resolved to ensure the affordable housing provided best meets the council's evidenced housing needs, namely:

- Tenure split
- Unit mix
- Wheelchair unit provision and tenure

5.108 **Planning Policy:** Initial Response: Object:

5.109 Summary:

The proposal for mixed use high density redevelopment of the Hove Gardens site comprising employment (B1a) and residential development is supported by policy DA6 in principle. Whilst the site lies within a wider strategic allocation for Conway Street Industrial Area, where comprehensive redevelopment would normally be sought, this does not preclude individual sites being redeveloped where the priorities of the policy can be largely met within the individual development scheme. Redevelopment of individual sites must not prejudice comprehensive redevelopment. However, the proposed stand-alone scheme fails to deliver a number of important priorities and improvements sought by policy DA6 and other citywide policies in City Plan Part One and the Local Plan. These include affordable housing, an improved public realm, public open space

and essential community services; and environmental, biodiversity, pedestrian and public safety improvements.

- 5.110 The applicant has submitted evidence with the planning application to provide a justification for not meeting a number of these policy requirements on the basis of viability. This evidence needs to be assessed by the District Valuer and will be considered in full, though there do not appear to be any unusual or extraordinary costs in bringing this specific site forward.
- 5.111 Whilst the benefits of kick-starting regeneration of the Conway Street Industrial Area with a single site are recognised, the current proposal fails to meet a large number of policy priorities and there is a concern that this will place a significant burden on later 'phases' of redevelopment to deliver these policy requirements which as a consequence would be unlikely to be met. This is a particular concern given how recently the City Plan Part One was adopted (March 2016)
- 5.112 As it stands, it is considered that the current scheme fails to meet a significant number of planning policy priorities relating to it as a standalone site and for it as part of the wider strategic allocation site (including DA6, CP7, CP19 and CP20). This would normally need to be the subject to viability considerations against the evidence submitted. However, given the application site is part of a wider site (Conway Street Industrial Area), and failure to deliver policy priorities as part of this scheme will prejudice delivery of priorities across the wider site, it is considered that there is not a case for exception to policy.
- 5.113 If significant improvements cannot be made it is considered that the preferred approach would be for a comprehensive outline scheme to be submitted for the wider strategic allocation area. This can then set out the level and balance of uses across the wider site and how, and whether, wider benefits will be delivered. This will allow the scheme to be considered holistically and against evidence (including viability evidence) for the wider site.
- 5.114 Main comment:
Policy Context:
Due to the nature of the area and the findings of the Employment Land Study 2012 the main focus of redevelopment is the provision of 'B' use class employment space.
- 5.115 The policy highlights the need for schemes to improve the public realm and townscape (particularly in the Conway Street area) provide environmental, biodiversity, pedestrian and public safety improvements and to contribute to the provision of public open space, essential community services. The provision of green roofs and walls are encouraged. In addition to DA6 the proposal should also meet all other respective policies (design, transport, housing, employment etc).
- 5.116 Principle of Development and Key Principles:
In principle an individual site proposal may be acceptable where it appropriately accords with all policy DA6 regeneration requirements and fully respects its location and all other policy requirements. Alternatively it should fit within a

wider 'masterplan' that demonstrates it does not prejudice the comprehensive approach for the area as sought by policy DA6 and accords with other policy requirements.

- 5.117 The Design and Access Statement sets out a number of principles established in preparing the proposal which are in general welcome and consistent with the objectives of policy DA6. The indicative assumptions in respect of the public realm improvements do not form part of the proposal or a planned delivery strategy.
- 5.118 The scheme does not seek to address all the DA6 regeneration requirements. It fails to provide and secure the wider policy requirements.
- 5.119 The scheme therefore places the onus on later phases to address some of the cost neutral/negative elements and as such it is important to have clarity over where the cost neutral or negative value elements will be delivered within the strategic allocation area and how they will be linked to development sites/phases in a manner that appropriately secures delivery. This also helps to ensure the accumulated generated demands from the areas comprehensive regeneration are met holistically rather than piecemeal (eg one large open space is normally more effective/flexible than lots of small spaces in addressing recreational requirements and assisting social integration, affordable housing could be more easily provided in one or two blocks rather than scattered throughout the area).
- 5.120 This raises concern that the proposed piecemeal development, without a masterplan showing how all DA6 requirements will be suitably delivered, is likely to prejudice the delivery of key elements of the policy.
- 5.121 Housing:
It should be noted that, contrary to what is indicated in the application's planning statement, the Council is able to demonstrate a five-year housing land supply.
- 5.122 The proposed residential element would make a valuable contribution to the city's housing requirements and to the city's housing land supply position (CP1 Housing Delivery). The potential for housing as part of a mixed use redevelopment of the wider site is supported by the strategic allocation. However the proposal does not fully accord with housing policy requirements.
- 5.123 Housing Density:
Policy CP14 supports higher densities subject to a number of criteria. The policy seeks a minimum of 100 dph on major development sites in DA6 subject to meeting the criteria. The proposal seeks approximately 470 dph however it fails to meet a number of the policy criteria: 3 and 6 - with 1 and 2 subject to assessment on-site and comments from other consultees (eg heritage, housing and transport).
- 5.124 Replacement of B8/B2 employment floorspace to B1 office floorspace:
Policy DA6 welcomes a shift into high quality flexible office/business (B1) floorspace with higher employment densities within the Conway Street Strategic

Allocation and therefore supports the replacement of B8/B2 employment with B1 office use. The proposal, in the absence of a 'masterplan', the retention of the employment floorspace (approximately 2,000sqm) is considered important and supported. In view of the proposed balance with housing this site may even be able to support additional employment floorspace. In addition to this, in view of the employment needs and DA6 requirements, it is not considered the proposed B1 floorspace should be granted a flexible use (eg A1, A3, A4, B1, D1, D2 as indicated in the Design and Access statement).

5.125 Proposed Retail:

The site is an out of town centre location and a sequential test as required by policy CP4 and the NPPF (paragraph 24) to assess whether there were any sequentially preferable retail sites available has not been provided in order to justify the principle.

5.126 Open space:

A contribution would be sought towards open space and indoor sports provision. The amendments alter the generated demand and thus contribution. Based on a development of 186 residential units (98 x 1bed, 71 x 2 bed and 17 x 3 bed) the proposal is calculated to generate a demand for 1.942 hectares of open space (19,419sqm) which equates to, assuming no on-site provision, a financial contribution of £398,994 and also a financial contribution of £75,264 for indoor sport provision

5.127 The proposed 109sqm for play space whilst welcome is not suitable to provide an equipped children's play space which needs to be a minimum of 400sqm with appropriate buffer area around (eg total of 500sqm) to be effective. The proposed play space will however provide an informal area for children. It should be clear that children are welcome in the space and should be suitably located away from properties so as not to cause disturbance. The appropriateness of provision should also take into account micro-climate including shading and wind tunnelling.

5.128 This standalone proposal does not generate sufficient demand for such a playground highlighting the need for a masterplan to ensure the future needs of the area to be regenerated are appropriately assessed and addressed.

5.129 Surface water and waste water/sewage:

Impacts need to be assessed and accommodated where capacity does not exist to address policy DA6 and CP11.

5.130 Waste Management:

A fully completed Site Waste Management Plan (SWMP) is therefore required, this could be by condition.

5.131 Neighbourhood Area:

The site also lies within the Hove Station Neighbourhood Area. It is recognised the applicant has engaged the Hove Station Neighbourhood Forum in this proposal an approach that is encouraged and welcomed. Whilst initial draft documents have been prepared, no 'formal' pre-submission draft

5.132 Neighbourhood Plan has been published to date. Little weight can therefore be given to the Hove Station 2nd draft Neighbourhood Plan which in general seeks to endorse the proposal. It is important to note that the local planning authority has raised concerns that some of the policies in the 2nd draft Neighbour Plan conflict with strategic policy, on this basis it does not therefore meet the 'Neighbourhood Plan' basic conditions.

5.133 Further Response:

The further submission of an indicative public realm plan and amendments to secure compliance with the national residential space standards are noted and are welcomed. The public realm improvements will be subject to compliance with transport/highway requirements and the ability to adopt and maintain. Whilst welcomed these amendments do not override the need to address the other policy requirements and concerns raised in the planning policy response

5.134 **Sustainable Transport:** Initial Response: No Objection:

The Highway Authority recommends that this application is refused. Due to a lack of information the applicant has failed to demonstrate compliance with policy DA6 of the Brighton & Hove City Plan Part One. The applicant has put forward various public realm improvements, as is required as part of Policy DA6, including:

- A cycle ramp on the steps between Conway Street/Goldstone Villas
- Improvements to Conway Street, Ethel Street and Ellen Street particularly in terms of benefitting pedestrians and cyclists
- Conway Street will become one way west bound
- Loading bay provided on Conway Street
- Car Club bay on Ellen Street
- On-street cycle parking for 63 spaces (32 spaces)

5.135 However, in lieu of detailed survey information the applicant has failed to fully assess the implications of the proposed public realm improvements and demonstrate that the proposed changes will not have negative knock on consequences for the wider area. The Highway Authority is aware of vehicles using these roads to avoid adjacent signalised junctions (Sackville Road A2023 and Old Shoreham Road (A270) but not the extent of this movement. The potential to make Conway Street one way could have knock on effects in the local area and without survey data the extent of this cannot be quantified or fully assessed.

5.136 In the absence of a layout plan it has not been demonstrated that all that is proposed could actually be accommodated onstreet, especially when consideration is given to also providing an appropriate level of onstreet parking and all the other infrastructure that needs to be accommodated on-street.

5.137 Cycle parking:

The basement provision of 210 spaces (196 residential and 14 spaces for the office) is acceptable. Reference is also made to 63 visitor cycle stands being provided as part of the public realm improvements however no detail has been

provided to demonstrate how this could be achieved and it is not apparent where provision could actually be made for this number on-street.

5.138 Signage warning dual use of the car park ramp would be necessary.

5.139 Disabled Parking:

12 disabled parking spaces are proposed in the basement which will be allocated to the 2 wheelchair units (10% of the 19 affordable units) the rest would be for the office and visitors.

5.140 There are an adequate number of disabled spaces to provide 1 space per wheelchair accessible unit and several other spaces for visitors and employees of the office.

5.141 Car Parking:

A total of 61 spaces are proposed (12 of which will be for disabled badge holders). Maximum standard is 198 spaces (for residential and visitors). The proposal is acceptable and in accordance with maximum standards.

5.142 For this development of 188 units (295 bedrooms) on assessment of census data for car ownership in the local area, there is forecast to be 100 vehicles associated with this development. It is not apparent from the submission how many of the spaces are proposed to be allocated to the residential element.

5.143 In order to control the level of overspill car parking from the proposed development the Highway Authority would look for the development to be permit-free meaning that future residents will not be able to obtain on-street residents parking permits and there would be no overspill into Controlled Parking Zones. The Highway Authority would also look to secure comprehensive travel plan measures to promote sustainable modes of transport and limit the potential overspill car parking into areas beyond the boundary of the current CPZs.

5.144 The Highway Authority does not have any objections to the proposed level of car parking subject to securing the appropriate mitigation mentioned above.

5.145 On the basis that the parking allocation to the different uses is unclear, the Highway Authority would express a preference that it be allocated primarily to the residential accommodation in order to reduce the risk of overspill parking. A car park management plan would be recommended by condition.

5.146 S106 Developer Contributions:

Notwithstanding the issues outline above regarding public realm improvements, it is acknowledged that they would go some way to mitigating the impacts of the scheme in highway terms and the contribution would therefore be negotiated accordingly. However, the Highway Authority does not believe the proposed improvements go far enough to mitigate the impacts of the scheme or to improve the permeability of the area and the walking and cycling network to ensure safe and accessible routes are provided between the development and

local amenities. As such the Highway Authority would be seeking additional works including:

- Junction improvements.
- Kerb re-alignment and tactile paving.
- Extension of Conway Street works to create a pocket park and improve access to Hove Station.
- Pedestrian route improvements.
- Reinstatement of redundant crossovers.

5.147 Construction Environmental Management Plan (CEMP) and Travel Plan - would also be sought if the application were acceptable.

5.148 Further Response: No Objection:

The proposal has been revisited after a revised plan for public realm works was associated.

5.149 Previously the Highway Authority recommended refusal (original comments attached) and a draft reason for refusal was included as follows:

“In the absence of sufficient survey data along with adequate layout plans in support of the proposed public realm works the applicant has failed to demonstrate the proposals could be accommodated on-street without harmfully impacting on the surrounding highway network. Notwithstanding the lack of information, the works in principle are not sufficient to adequately address necessary improvements to permeability of the area and the walking and cycling network to ensure safe and accessible routes are provided between the development and local amenities. The applicant has therefore failed to demonstrate compliance with policies DA6 and CP9 of the Brighton & Hove City Plan Part 1.”

5.150 The applicant has now issued further information in the form of:

- Technical Note – which includes junction modelling assessments of the following junctions, Conway Street/Fonthill Road, Fonthill Road/Ellen Street and Ellen Street/Ethel Street.
- Off-site pedestrian route improvements (drawing number J32-2637-PS-007).
- Scheme Proposals General Arrangement (drawing number J32-2637-PS-001 B).
- Public Realm Proposal Sketch submitted by LCE Architects.

5.151 The Highway Authority is of the view that this additional information addresses the previous concerns and the broad principles of the improvements are acceptable to the Highway Authority. The proposals are considered to address the requirements of DA6 in terms of public realm improvements and the applicant has demonstrated that the proposals are not forecast to have a significant impact upon the surrounding highway network. Further detail will have to be worked up as part of the S278 process, additional amendments made to the design and additional information provided.

5.152 Sustainable Drainage

The Lead Local Flood Authority (LLFA) has no objections to this application subject to the inclusion of a condition to ensure that a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods is agreed by the LPA prior to commencement and then implemented accordingly.

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

DA6 Hove Station Area

SA6 Sustainable Neighbourhoods

CP1 Housing delivery

CP2 Sustainable economic development

CP3 Employment land

CP4 Retail provision

CP5 Culture and tourism

CP7 Infrastructure and developer contributions

CP8 Sustainable buildings

CP9 Sustainable transport

CP10 Biodiversity

CP11 Flood risk

CP12 Urban design

CP13 Public streets and spaces

CP14 Housing density

CP15 Heritage

CP16 Open space
CP17 Sports provision
CP18 Healthy city
CP19 Housing mix
CP20 Affordable housing
SA6 Sustainable Neighbourhoods

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

TR4 Travel plans
TR7 Safe Development
TR12 Helping the independent movement of children
TR14 Cycle access and parking
TR15 Cycle network
TR18 Parking for people with a mobility related disability
SU3 Water resources and their quality
SU5 Surface water and foul sewage disposal infrastructure
SU9 Pollution and nuisance control
SU11 Polluted land and buildings
SU10 Noise Nuisance
QD5 Design - street frontages
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species protection
QD27 Protection of amenity
HO5 Provision of private amenity space in residential development
HO13 Accessible housing and lifetime homes
HO21 Provision of community facilities in residential and mixed use schemes
HE3 Development affecting the setting of a listed building
HE6 Development within or affecting the setting of conservation areas
HE10 Buildings of local interest

East Sussex, South Downs and Brighton and Hove Waste and Minerals Plan (2013)

WMP3d - Minimising and managing waste during construction, demolition and excavation

WMP3e - Waste management in new development

Supplementary Planning Guidance:

SPGBH9 A guide for residential developers on the provision of recreation space

SPGBH15 Tall Buildings

Supplementary Planning Documents:

SPD02 Shopfront design

SPD03 Construction & Demolition Waste

SPD11 Nature Conservation & Development

SPD14 Parking Standards

Developer Contributions Technical Guidance (March 2017)

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of development, policy compliance, design and appearance, impacts on heritage, amenity, sustainable transport and sustainability.
- 8.2 The City Plan Part One Inspector's Report was received February 2016. This supports a housing provision target of 13,200 new homes for the city to 2030. It is against this housing requirement that the five year housing land supply position is assessed following the adoption of the Plan on the 24th March 2016. The City Plan Inspector indicates support for the Council's approach to assessing the 5 year housing land supply and has found the Plan sound in this respect. The five year housing land supply position will be updated on an annual basis.
- 8.3 **Principle of development:**
Policy compliance:
The 0.4 hectare site falls within the Conway Street Industrial Area Strategic Allocation (DA6 C.1), which covers an area of 3.44 hectares, in policy DA6 Hove Station Area of the City Plan Part One. The Strategic Allocation is then set within the wider DA6 Hove Station Area allocation which extends in each direction around the strategic allocation/site and north of the railway line where it is centred on Newtown Road and includes Sackville Trading Estate and the existing Coal Yard. DA6 is one of eight development areas allocated in City Plan Part One adopted in March 2016. The regeneration and redevelopment of this area of the City is strongly supported by policy and represents a prime location to increase the density of development supported by the sustainable transport hub of Hove Station.
- 8.4 Policy DA6 seeks to secure the long term regeneration opportunities around the station and promotes the area's development as an attractive and sustainable mixed-use area focussed on employment (employment with residential mix sought). Due to the nature of the area and the findings of the Employment Land Study 2012 the main focus of redevelopment is the provision of 'B' use class employment space.
- 8.5 Policy DA6 A. sets out a list of 10 local priorities for the wider allocation which includes;
- Preparation of design guidance to support positive redevelopment of the allocation,
 - Improvements to public realm - particularly along Conway Street,
 - Provision of open space and essential community services along with improving pedestrian and cyclist safety which is linked to enhancing the sustainable transport interchange at Hove Station,
 - New green infrastructure and consideration of low and zero carbon decentralised energy and in particular heat networks which are compatible with future connection to a network.

- 8.6 In addition to the above, policy DA6 C.1 relates specifically to the Conway Street Industrial Area Strategic Allocation and seeks to secure the long term regeneration opportunities around the station and promotes the area's development as an attractive and sustainable mixed-use area which is employment led/focused.
- 8.7 DA6 C.1 Strategic Allocation is seeking -
- Retention replacement of 12,000sqm employment floorspace - shift to high quality flexible office/business (B1),
 - 200 residential units,
 - Along with setting out the need to meet 5 criterion including:
 - Demonstrate development on smaller sites will not prejudice the objectives of the allocation,
 - Improve pedestrian and cycle access to Hove Station and across the railway.
- 8.8 The Design and Access Statement notes in relation to Use & Amount that the two smaller units which front Ethel Street are proposed to be flexible uses A1, A2, A4, B1, D1 and/or D2; this is not however reflected in the Planning Statement or the description for the application presented by the applicant. As such the development has been considered on the basis of the main commercial unit as B1a office, whilst the smaller unit on the eastern elevation as A1 retail.
- 8.9 The general principle of mixed use redevelopment comprising employment (B1a) and residential is supported by policy DA6. However, as noted by the Planning Policy Team, key to the regeneration sought by policy DA6 is securing comprehensive redevelopment that not only delivers employment and residential development but also a number of other specified requirements including public realm enhancements, public open space, essential community services and the most effective way to achieve the positive redevelopment of the area is through holistic redevelopment.
- 8.10 Piecemeal development within the allocation is acceptable in principle where it meets the policy objectives set out above. However, where this is not the case and a piecemeal scheme does not fully meet these policy aims (as with the current application) it is necessary for the applicant to demonstrate that the development will not undermine the overall policy objectives for the Strategic Allocation.
- 8.11 The current scheme is for part of the strategic allocation site, as it is the first site to come forward within the strategic allocation and result in the benefit of 'kick-starting' the redevelopment of this area. It is acknowledged this would place the onus on later 'phases' of development across the strategic allocation in respect of meeting some of the wider environmental and social policy requirements the policy seeks.

- 8.12 The Design and Access Statement submitted with the application outlines in an illustrative format how the design principles employed in the current proposal could be applied to inform the development of the wider strategic allocation. However, it does not demonstrate how the other policy requirements could be achieved across the whole site allocation.
- 8.13 During the course of the consideration of the application, the applicants have provided further details of the proposed public realm improvements around the perimeter of the development, in particular significant works to Conway Street which include traffic calming measures, hard surfacing, vehicular and cycle parking, lighting, seating and tree planting, together with the resurfacing and provision of a cycle ramp and handrails to the existing steps to Goldstone Villas. These works would significantly improve connectivity between Goldstone Villas/Hove Station and Conway Street/Ethel Street and would set the benchmark for future public realm improvements across the rest of the Strategic Allocation and the wider Development Area.
- 8.14 The proposed retail unit is acceptable. As it is located out of town centre and it is relatively small, in terms of floor area, it is not considered that a sequential test as required by policy CP4 and the NPPF (paragraph 24) to assess whether there were any sequentially preferable retail sites available.
- 8.15 Whilst it is acknowledged that a fully worked up masterplan has not been submitted as part of the application and that there are some deficiencies in the scheme in regards the future provision of community facilities, greening and open space, there are clear benefits to the scheme in the 'kick-starting' the regeneration of the area and public realm improvements. For this reason on balance the proposal is considered to be in accordance with the strategy set out in City Plan policy DA6.
- 8.16 **Affordable Housing**
City Plan Policy CP20 Affordable Housing sets out an expectation for developments over 15 units in size to achieve a provision of 40% affordable housing which equates to 74 units for this scheme. Where flexibility is applied to achieving this target, the policy sets out a set of 5 criteria to be considered in relation to whether a lower provision can be justified; criterion iii is relevant in this case and a viability assessment has been submitted with the application and has been independently assessed by the District Valuer Service (DVS).
- 8.17 The initial supporting viability assessment stated that provision of 10% would not be viable, 2.5% would 'break-even' and only 0% would be viable. These calculations did not take into account the cost of the public realm improvements required which would further affect the viability of the scheme.
- 8.18 The initial findings from the DVS were that the scheme could viably support a policy compliant mix of 40% affordable housing (55:45 mix of affordable rented and shared ownership).

- 8.19 Considerable discussion has taken place between the DVS and the applicants to agree the assumptions underpinning the viability assessment. At the end of this process the DVS reappraised the scheme and have confirmed that it would not be viable to provide a policy compliant mix of 40% affordable housing. The scheme would however support 25% affordable housing with a policy compliant mix of tenure (46 units – 25 affordable rented and 21 shared ownership).
- 8.20 The applicants have confirmed that they are offering to provide a scheme with 18.8% affordable housing which equates to 35 units. This is broken down to 19 affordable rented units in block B (54.3%) and 16 shared ownership units in block D (45.7%). This is the preferred mix set out in the latest Affordable Housing Brief. Whilst the applicant has highlighted that, in their view, the level of affordable housing would technically make the scheme unviable they are willing to offer this amount in order to help achieve a positive recommendation.
- 8.21 The affordable units would be provided as follows:
All of Block B – Affordable Rent
9 x 1 beds
9 x 2 beds
1 x 3 beds
- 8.22 All of Block D – Shared Ownership
10 x 1 beds
6 x 2 beds
- 8.23 Whilst the policy compliant mix of tenure is welcomed the offer is below what the independent assessment has indicated the scheme can viably support. There are no significant mitigating factors in this case whereby the independent viability assessment could be disregarded and the lower amount secured. For this reason the proposal is contrary to City Plan policy CP20 and refusal is recommended for the reasoning set out above.
- 8.24 **Heritage:**
The key impacts of the development on heritage assets are identified by the Heritage Team as being on the setting of Hove Station Conservation Area and on the setting of the grade II listed Hove Station together with the locally listed public house adjacent. These assets along with the adjacent Goldstone Villas have a very clear historic relationship and the Station has historically been the dominant architectural element in the area, as benefits its use and status. It remains a key focal point, both visually and functionally in the approaches, especially along Station Approach.
- 8.25 The main visual impacts on these assets are identified as being in the medium distance views from Station Approach and Goldstone Villas. On assessment of the views submitted, the development would be likely to impinge on the outline of the canopy of the Station from in front of the café/sandwich bar located to the east of the main Station for example and as a result of the development's scale and bulk, it would alter the way in which the Station is seen in these viewpoints. In addition, there would be a substantial visual impact on the outline of the locally listed pub and on the setting of the wider Hove Station Conservation

Area. The Heritage Team consider that the development would demonstrably change the way in which these heritage assets are experienced. The area is predominantly low rise and the view of this historic grouping has a traditional, small scale intimacy.

- 8.26 The applicant has addressed the heritage harm by a reduction in height of both block D (north-east corner) and part of block E (south east corner) by one floor. The Heritage Team consider that these together represent a modest improvement to the proposals, in terms of the scale and massing and the impact on the setting of the Hove Station conservation area, the listed station and the locally listed public house.
- 8.27 In addition to the harm identified above, the Heritage Team also note that the development would be partly visible in the winter months (whilst the trees are not in leaf) above the hipped roofline of the houses in the Denmark Villas Conservation Area. Its intrusion above the roofline in an arbitrary manner would cause some harm to the setting of this small scale and formal residential area. Some harm is also identified to the locally listed Hove Park.
- 8.28 As noted by the Heritage Team the area is identified as being appropriate for higher density development in principle. The Conway Street Industrial Area Strategic Allocation (DA6 C.1) is identified in Policy CP12 Heritage and SPGBH15 Tall Building design guidance as having the potential to accommodate tall buildings. Work undertaken by Officers has identified the eastern most block (where the application site is located) as being best to accommodate medium-rise of between 6-8 storeys, with taller development of between 8-15 storeys on blocks further west. The purpose is in order to minimise visual impacts on the setting of the listed building of Hove Station and on the settings of the Hove Station and Denmark Villas Conservation Areas, as well as concentrating the tallest elements as a cluster in the centre of the area as a whole; this information was shared with the applicant.
- 8.29 As noted by the Heritage Team, the current proposal does not accord with that approach, having tall blocks and one very tall block (17 storeys) on this eastern-most block in the allocation. In the absence of proposals for the blocks to the west it is not possible to see a wider coherent vision for the tallest buildings which is a concern.
- 8.30 When harm to a heritage asset is identified as a result of a development there is a statutory presumption (inherent in sections 66 and 72 of the Listed Buildings and Conservation Areas Act) against granting planning permission. In accordance however with paragraph 134 of the NPPF where the harm is less than substantial, this harm should be weighed against the public benefits of the proposal.
- 8.31 In this case, whilst the Heritage comments are noted, the public benefits of the redevelopment of a Strategic Allocation within a Development Area identified in the City Plan and the improvements to the public realm are considered to outweigh the harm to heritage assets.

- 8.32 **Design:**
The scheme proposes a dense form of development on the site in terms of its height, scale, bulk, mass and detailed design. The application was not considered by the Design Review Panel, contrary to advice at pre-application stage.
- 8.33 The principle of a tall building on the site in accordance with City Plan policy CP12 and SPGBH15 Tall Buildings Guidance. The Design and Access Statement identifies that the tallest element has been encouraged through consultation with the neighbourhood forum and is intended to provide variety in the form and act as a landmark or 'beacon' from further afield. The tallest element would be visible in both long and short distance views.
- 8.34 Concerns have been raised about the scale, bulk and mass of the development below the tallest element at the west end of the site. It is only between three and four storeys lower than the adjoining elements. The stepping up of the development around the tallest element thereby increases the visual impact of the scheme. It would be preferable for the tower to be amended to a more slender structure to reduce its visual impact.
- 8.35 In addition, the building would have a large footprint, with some elevations to the north side being located close to the back edge of pavement, thereby increasing its visual impact. A further concern is that the proposals does not include the redevelopment of the whole site westwards up to Goldstone Street as this is in separate ownership.
- 8.36 However, the scheme has been designed to divide the development into smaller elements with a vertical emphasis of varied heights and distinguished by the use of different, complementary materials, mainly brick around the perimeter and cladding panels for the taller elements. This approach is supported, subject to securing high quality materials.
- 8.37 The form and appearance of the development is challenging in terms of its visual impact. Whilst objections have been raised to the design of the proposals, the scheme has attracted support from a number of bodies, including the Hove Station Neighbourhood Forum, Hove Civic Society, Regency Society of Brighton and Hove and the Conservation Advisory Group. The proposals also need to be assessed against the planning policy context which encourages the regeneration of this site within a Development Area Strategic Allocation and the provision of tall buildings in this location, together with the 'kick starting' of the redevelopment of the wider area. For these reasons the design of the scheme is supported.
- 8.38 **Trees and landscaping:**
The surrounding area is significantly lacking in green infrastructure as acknowledged by policy DA6 A.9. which seeks to integrate new provision including green space and accessible green roofs. The supporting documents detail the proposed landscaping, the vast majority of which is privately accessed and contained within the development in the form of roof gardens and the main central courtyard which the development is centred on. The central courtyard is

proposed to contain children's play area, fixed seating areas, grassy picnic platforms as well as raised planters.

- 8.39 Extensive landscaping is proposed to the roof terraces including allotment space for the residents and tree planting across most levels which is also supported in principle. Considering the limited sunlight to some rooftop areas and the exposed nature of these spaces the validity of the proposed tree planting in particular is very doubtful especially at the size shown on the visuals submitted which are quite substantial. Some of the allotments are shown to be to the north of the tallest element and could therefore be in shadow for significant parts of the day casting doubt on the suitability of this location. In addition, as noted by the panel any growing medium that is elevated above ground level as shown should be protected from inclement weather and this should therefore be designed into the scheme rather than retro fitted to ensure it has an acceptable appearance as well as ensuring the space is fit for purpose.
- 8.40 The London Plane trees on the east of the site have been removed by the applicant against the advice from the Arboriculture Team.
- 8.41 Given the site coverage and almost entirely back of pavement edge building, the opportunities to secure tree planting is limited. However, the submitted public realm proposals indicate a number of street trees to Conway Street and Ellen Street, which combined with the proposed landscaping on site, will contribute to the green infrastructure of the area, and set the benchmark for the remainder of the Development Area.
- 8.42 Impact on Amenity for future occupiers
All of the proposed units have been designed to accord with the Nationally Described Space Standards and are considered to provide acceptable levels of amenity in regards to the size, layout and circulation space.
- 8.43 An Internal Daylight and Overshadowing Report forms part of the submission and assesses the quality of the light within the proposed flats. This report assessed a number of the flats on the lower floors which had been identified, due to their siting, orientation, fenestration and layout, to potentially struggle to provide satisfactory levels of daylight. The report noted that there were a number of units on the lower floors where the average daylight factor (ADF) was below the minimum standards set out in the British Standard Code of Practice for daylighting, BS8206 Part 2.
- 8.44 The layout and fenestration is currently being revised on a number of rooms to improve the ADF throughout the scheme. Revised drawings are awaited and this issue will be updated at the meeting.
- 8.45 Another compensatory factor is that every flat would have a private balcony or terrace and all would have access to the private communal gardens in the centre of the site.
- 8.46 As noted by Planning Policy the proposed play space whilst welcome is not suitable to provide an equipped children's play space which needs to be a

minimum of 400sqm with appropriate buffer area around (eg total of 500sqm) to be effective. The proposed play space could instead however provide an informal area of play for children. Whilst it is clear from the shadowing assessment that this internal courtyard would suffer from low levels of light for much of the year as set out above each unit does have some external amenity space and overall the scheme is acceptable in this regard.

- 8.47 An acoustic report has been submitted with the application. Whilst the report does not consider that noise and vibration from adjoining roads and the rail network would be acceptable it fails to assess a number of other matters including, impacts from the commercial uses and associated activities, the basement car park and likely associated security gates, the lifts, the transformer and most notably the impacts of the potential use of the roof terrace over the office block for public events including an open air cinema.
- 8.48 The report goes on to recommend that the positioning of noise sensitive uses next to bin stores, plant rooms and the car park entrance for example should be avoided. However this has not been adopted across the scheme, for example; Flat 5 Block A shares a wall with the transformer, Flats 12 and 6 Block A are directly above the access to the car park whilst Flat 9 Block D and Flat 27 Block E directly abut the rooftop potential event space, whilst numerous flats including bedrooms abut the lift cores.
- 8.49 Whilst these omissions are regrettable, after discussions with the Environmental Health Team it is considered that satisfactory living conditions for future occupiers could be safeguarded by the use of carefully worded conditions.
- 8.50 On the roof of the office block, a 'pop-up space' is proposed for which very limited information is available within the submission, only briefly being referred to in the Design & Access Statement and not at all the Planning Statement. It is stated that it would in the main be used in connection with the offices however could be used for organised public events.
- 8.51 If this space were to be used for events using amplified music / audio there is the potential for harm to the amenity of neighbouring flats and as such if the application were otherwise acceptable suitable conditions restricting hours of use would be proposed to safeguard the amenity of future occupiers.
- 8.52 Overall, subject to relevant conditions the proposal would provide adequate living conditions for future occupiers in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 8.53 **Land Contamination**
The land contamination study submitted with the application (Ashdown Site Investigations Ltd) only has preliminary conclusions and given the commercial history of the site and likely level of contaminates, as a minimum a full desk top study documenting all the previous and existing land uses of the site and adjacent land is necessary. It is considered if the proposal were otherwise acceptable that a full land contamination investigation could be conditioned.

- 8.54 **Impact on Amenity of adjoining occupiers**
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.
- 8.55 A daylight assessment has been submitted with the application which looks at properties to the east and south of the site. In addition a shadowing study has also been submitted.
- 8.56 The daylight assessment uses a three dimensional model to assess the neighbouring properties to the east fronting Ethel Street (and rear of Goldstone Villas) and also Livingstone House to the rear. The readings are taken from points on the elevations rather than specific windows.
- 8.57 The rear of Goldstone Villas is predominantly made up of single (or sometimes two storey) commercial units which front Ethel Street with the residential units largely set back in the main terrace and on the higher floors.
- 8.58 The study sets out that whilst there would be a reduction of daylight for a number of properties to the east that this would be relatively minimal with only a limited number of properties that would have noticeable reduction in daylight and this is not considered so significant as to warrant the refusal of the application.
- 8.59 There would also be a reduction in the daylight to a number of the flats within Livingstone House with the worst impacted being the lowest three floors. Again the reduction in daylight, whilst noticeable was considered acceptable in the context of a built up urban area.
- 8.60 It is further noted that the residential accommodation within the blocks to the south are predominantly dual aspect and as such whilst the units on the lowest floors would suffer a reduction in daylight to the north facing windows this does provide some mitigation.
- 8.61 It is noted that 2-12 Ethel Street have not been assessed. The impact of these residential units, which are set back beyond the row of commercial garages would be comparable to the lowest floors of the adjoining Livingstone House and it is not considered that any loss of light to these properties would be so significant as to warrant refusal.
- 8.62 In terms of sunlighting, the orientation of the council blocks to the south is such that there would not be any significant shadowing / loss of sunlight to these properties.
- 8.63 As existing, it is clear that there is a fairly significant level of shadowing to the adjacent properties to the eastern side of Ethel Street later in the day as the sun moves round to the west. Whilst this situation would be worsened, especially for the properties to the north west of the site from late afternoon onwards it is

acknowledged that within a higher density urban environment a certain level of shadowing is inevitable.

- 8.64 The proposal would be sited sufficient distance away, on the opposite side of the road from the properties to the southern side of Ellen Street and also the properties to the east on Ethel Street (and rear of Goldstone Villas) and as such there would not be a significantly overbearing impact on these properties.
- 8.65 Whilst the proposal would result in the intensification of the use of the site, it is not considered that any increased noise and disturbance would be of a magnitude that would justify the refusal of the planning application. Carefully worded conditions could be used to control the hours of operation and deliveries to the commercial elements.
- 8.66 Overall, it is not considered that the proposal would result in any significant harm to the amenity of the neighbouring properties in accordance with policy QD27 of the Brighton and Hove Local Plan.
- 8.67 **Sustainable Transport:**
As noted above, a key requirement of policy DA6 relates to public realm improvements. The current application has put forward the following suggestions:
- A cycle ramp on the steps between Conway Street/Goldstone Villas,
 - Improvements to Conway Street, Ethel Street and Ellen Street particularly in terms of benefitting pedestrians and cyclists,
 - Conway Street will become one way west bound,
 - Loading bay provided on Conway Street,
 - Car Club bay on Ellen Street,
 - On-street cycle parking
- 8.68 Notwithstanding the above information no plans were submitted with the original submission setting out how the transport and public realm works would actually work in practise. Furthermore the survey work that is vital to be able to demonstrate that this development and associated highway works will not have a negative impact on the existing network and also to ascertain how these works will relate to any future redevelopment of the area were not submitted and as such the Transport Officer objected to the scheme.
- 8.69 During the life of the application further discussions with the transport team resulted in the submission of a technical note which includes junction modelling assessments of the following junctions, Conway Street/Fonthill Road, Fonthill Road/Ellen Street and Ellen Street/Ethel Street. In addition an indicative layout has been submitted showing proposed public realm works and the alterations to the highway.
- 8.70 This additional information is considered to address the initial concerns and subject to a detailed set of highway improvements to be secured through the Section 278 agreement the proposal is considered acceptable with sufficient improvements to the permeability of the area and the walking and cycling

network secured to ensure safe and accessible routes between the development and local amenities.

- 8.71 SPD14 states that the minimum standard for disabled parking for a residential land use is 1 disabled space per wheelchair accessible unit plus 50% of the minimum parking standard for visitors.
- 8.72 A total of 61 spaces are proposed (12 of which will be for disabled badge holders). The proposed car parking level is deemed acceptable subject to the inclusion of the CPZ permit free condition and other mitigation in the form of Travel Plan measures and it is not considered that the proposal would result in any significant concerns in relation to overspill parking.
- 8.73 SPD14 requires that for residential schemes of 10 or more car parking spaces, 10% of the car parking provision should have electric vehicle charging and a further 10% of the total provision should have a passive provision to allow conversion at a later date. These are minimum standards and therefore the applicant could provide more; should they wish. Further details would be secured via condition if the scheme was otherwise acceptable.
- 8.74 **Sustainability:**
The scheme has addressed all aspects of Policy CP8 comprehensively. Reports have been submitted demonstrating how the scheme can achieve the targeted energy performance for the housing. For the non-residential elements of the scheme, energy modelling documents have been provided, these are welcomed and indicate a good energy performance. In addition, BREEAM pre-assessments have been submitted for both the retail and office to demonstrate 'Excellent' can be achieved.
- 8.75 Renewable energy technologies proposed include PV panels for electricity generation covering 225sqm; high levels of insulation to be specified along with highly efficient low temperature under floor heating systems. This is combined with the use of passive design measures including mitigation against overheating, indented balconies will offer shading on the south face and windows will incorporate solar control glazing.
- 8.76 Extensive roof gardens along with small private allotment plots, larger communal vegetable patches, picnic lawn areas and small trees are proposed. Sedum mix green roofs or solar PV panels are proposed on inaccessible roofs. In addition, 23 trees are proposed to be planted as part of landscaping though none of these are fruit trees.
- 8.77 The scheme is sited in Development Area DA6 Hove Station and Local Priority 10 of policy DA6 states that decentralised energy systems should be designed so that they are compatible with future connection to a network. If approved capacity would be recommended to be secured via a planning condition along with standard conditions to secure BREEAM 'Excellent' for the commercial elements, standard energy and water conditions for the residential and food growing as part of the landscaping plans.

9. CONCLUSION

- 9.1 The principle of development on this site is fully supported and encouraged by planning policy, being located within the Conway Street Strategic Allocation within the Hove Station Development Area identified in policy DA6 of the City Plan Part One. Officers have undertaken significant discussions and negotiations with the applicants to overcome concerns and secure an acceptable scheme.
- 9.2 The scheme is challenging in terms of the amount of development proposed, its form, appearance and impact on the locality. When its impact is weighed up against its positive benefits of kick-starting redevelopment of a Development Area Strategic Allocation and the provision of improved public realm it is supported. However, it has not been possible for the applicant to reach agreement with the DVS on the amount of affordable housing within the scheme, taking into account the viability of the development. Whilst the proposals have been independently assessed by the DVS as being viable with 25% affordable housing to an appropriate tenure mix, this has not been agreed by the applicant who is offering 18.8%. In these circumstances, the proposals are contrary to policy CP20 of the City Plan and refusal is recommended.

10. EQUALITIES

- 10.1 Although the plans and elevations differ, the ground floor plan indicate steps across the width of the retail units on Ethel Street which is likely to restrict access to this part of the development for wheelchair users.

ITEM B

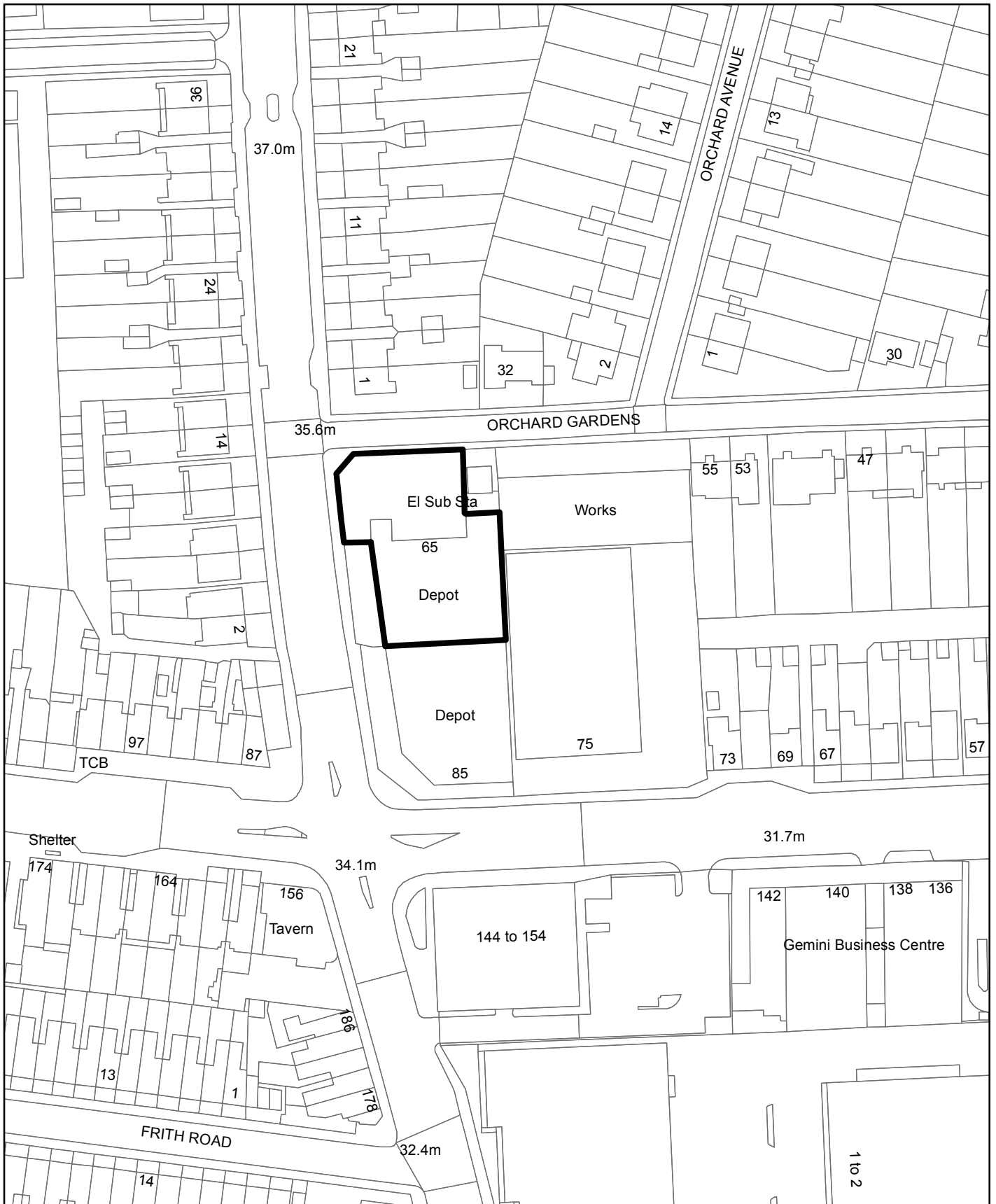
65 Orchard Gardens, Hove

BH2016/05312

Full Planning

DATE OF COMMITTEE: 21st June 2017

BH2016/05312 65 Orchard Gardens, Hove



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/05312	<u>Ward:</u>	Hove Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	65 Orchard Gardens Hove BN3 7BH		
<u>Proposal:</u>	Demolition of existing buildings and erection of a 5no storey building and basement comprising a mixed use development of offices (B1) on the Ground floor and 23no one, two and three bedroom flats (C3) on the upper floors, 23no car parking spaces (including 3 Disability Spaces), cycle storage and associated landscaping.		
<u>Officer:</u>	Jonathan Puplett, 292525	tel: <u>Valid Date:</u>	02.02.2017
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	04.05.2017
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Mr Paul Burgess 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Messrs J & P Chambers 65 Orchard Gardens Hove BN3 7BH		

1. RECOMMENDATION

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

S106 Heads of Terms

- 40% affordable housing (55% affordable rent (5 units) and 45% shared ownership (4 units)), comprising 5x 1-bedroom and 4x 2-bedroom units),
- A total contribution of £38,429 towards the cost of providing primary (£14,851), secondary (£20,192), and sixth form (£3,386) education provision,
- A contribution of £7,500 towards the Council's Local Employment Scheme,
- A Construction Training and Employment Strategy including a commitment to using 20% local employment during the demolition and construction phases of the development,
- A contribution of £11,000 towards sustainable transport infrastructure improvements within the vicinity of the application site.
- A Residential and Employee Travel Plan, to include Residential and Employee Travel Packs, to be provided for all first occupiers of the residential development, and all employees of the office use,
- A contribution of £63,604 towards open space and indoor sport provision.
- Provision of an Artistic Component / public realm improvements to the value of £18,600.

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	EX01	A	25/11/2016
PROPOSED LOCATION AND BLOCK PLAN, AND CONTEXTUAL ELEVATIONS	PL20	F	25/11/2016
PROPOSED GROUND FLOOR PLAN	PL21	F	25/11/2016
PROPOSED FIRST FLOOR PLAN	PL22	F	25/11/2016
PROPOSED SECOND FLOOR PLAN	PL23	F	25/11/2016
PROPOSED THIRD FLOOR PLAN	PL24	F	25/11/2016
PROPOSED FOURTH FLOOR PLAN	PL25	F	25/11/2016
PROPOSED ROOF PLAN	PL26	F	25/11/2016
PROPOSED EAST AND SOUTH ELEVATIONS	PL28	F	25/11/2016
PROPOSED WEST AND NORTH ELEVATIONS	PL27	F	25/11/2016
PROPOSED SECTION A-A AND B-B	PL29	F	25/11/2016

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. Other than the terrace and balcony areas hereby approved, access to the flat roofs of the development hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
4. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including:
 - a) Samples of all external wall finishes including brick, render and cladding (including details of the colour of render/paintwork to be used);

- b) Full details of all hard surfacing materials;
- c) Full details of the proposed window, door and balcony treatments;
- d) Full details of the proposed vehicle access shutter.

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 & Hove City Plan Part One.

5. 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 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.

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

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

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

7. The development hereby permitted shall not be first occupied until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall 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 and thereafter retained, other than any planting which 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 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 increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton &

8. All hard surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
Reason: To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.
9. 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.
10. 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 and Hove City Plan Part One.
11. 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 and Hove City Plan Part One.
12. Unless otherwise agreed in writing by the Local Planning Authority, within 4 months of the date of first occupation of the non-residential development hereby approved, a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' has been submitted to, and approved in writing by, the Local Planning Authority.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton and Hove City Plan Part One.

13. Prior to first occupation of the development hereby approved, full details of the photovoltaic array hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The photovoltaic array shall be installed in accordance with the approved details prior to first occupation of the development hereby approved.
Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.
14. 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.
15. The development hereby permitted shall not be first occupied until full details of disabled car parking provision for the occupants of, and visitors to, the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
Reason: To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14: Parking Standards.
16. The development hereby permitted shall not be commenced until details of electric vehicle charging points within the car parking area 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 first 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 seek measures which reduce fuel use and greenhouse gas emissions and to comply with policy CP9 of the Brighton & Hove Brighton & Hove City Plan Part One and SPD14: Parking Standards.
17. The development hereby permitted shall not be occupied until full details of secure cycle parking facilities for the occupants of, and visitors to, the development 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 and SPD14: Parking Standards.

18. 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. No external lighting shall be installed other than that which is in accordance with the approved details unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure that a highway safety risk is not cause, to protect the amenities of the occupiers of adjoining properties, and to comply with policies TR7, QD25 and QD27 of the Brighton & Hove Local Plan.
19. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014.
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
20. No development shall take place above ground floor slab level until a written scheme has been submitted to the local planning authority for approval which demonstrates how and where ventilation will be provided to each flat within the development including specifics of where the clean air is drawn from and that sufficient acoustic protection is built into the system to protect end users of the development. The approved scheme shall ensure compliance with Building Regulations as well as suitable protection in terms of air quality and shall be implemented before to occupation and thereafter retained.
Reason: To safeguard the amenities of the occupiers of the development and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
21. The glazing to the West façade of the building hereby approved shall reduce noise levels by at least Rtraffic 33dB, the ventilation installed on the West façade of the property must reduce noise levels by at least Dn,e,w 36dB, the glazing to the North façade of the property must reduce noise levels by at least Rtraffic 26dB, the ventilation installed on the North façade of the property must reduce noise levels by at least Dn,e,w 30dB.
Reason: To safeguard the amenities of the future occupiers of the building and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
22. No development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme for the soundproofing of the floors and walls between the commercial and residential uses hereby approved, has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.
Reason: To safeguard the amenities of future occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

23. Deliveries and waste collections associated with the commercial use hereby permitted shall only occur between the hours of 8am and 6pm on Mondays to Saturdays and 10am and 4pm on Sundays, Bank and/or Public Holidays.

Reason: To safeguard the amenities of future and neighbouring occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

24. 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 submitted 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.

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.

25. The development hereby permitted shall not be occupied or brought into use there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of part (b) of condition 24 above that any remediation scheme required and approved under the provisions of part (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 part (b) of condition 24 above.

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.

26. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the

Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

27. No development, including demolition, shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include a plan showing construction traffic routes which should be from the north of the site, in order to avoid the Air Quality Management Area to the south of the site. The development shall be carried out in accordance with the approved CEMP.

Reason: To ensure that construction traffic associated with the development does not travel through the Air Quality Management Area to the south of the site, and to accord with policy SU9 of the Brighton and Hove Local Plan.

28. Unless otherwise agreed in writing by the Local Planning Authority, the central heating and hot water systems of the development hereby approved shall be electric or shall be ultra-low NO_x gas boilers with emission of < 16 mg/kwh. Details of the proposed central heating and hot water systems shall 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 and to comply with policy SU9 of the Brighton & Hove Local Plan.

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

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

30. The development hereby permitted shall not be commenced (other than demolition works) until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the Surface Water Drainage Strategy received 02/02/2017 has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design

Reason: 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.

31. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been

demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater in accordance with policy SU3 of the Brighton & Hove Local Plan.

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. A formal application for connection to the public sewerage system 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
3. 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
4. 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 above 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 means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk".
5. Detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site is situated on the southern corner of the junction of Orchard Gardens with Nevill Road (A2023). The site currently comprises single storey industrial buildings (Portslade Panelworks) and an enclosed yard to the northern part of the site. To the south and east of the site it is bordered by neighbouring commercial buildings comprising industrial uses (C. Dugard Machine Tools Ltd.) and a tyre and exhaust centre (Kwik Fit). Vehicular access is from the northern side of the site off Orchard Gardens. The land between the existing building and the Nevill Road pavement is within the demise of the tyre and exhaust centre

and is used to park vehicles. There is an electricity substation housed in a brick faced building alongside the eastern boundary of the application site facing on to Orchard Gardens.

- 2.2 Planning permission is sought for the clearance of the site, demolition of the existing buildings, and the erection of a 4/5 storey building comprising ground floor office space (B1(a)), ground floor double height car parking area, and the provision of 23 self-contained flats to the upper floors. Nine affordable units are proposed; five as affordable rent and four as shared ownership. 23 car parking spaces are proposed, three of which are suitable for disabled access. A landscaped communal garden area is proposed to the eastern side of the site atop the flat roof of the ground floor car park.

3. RELEVANT HISTORY

- 3.1 **BH2014/03966:** *Demolition of existing buildings and erection of a part three, four and five storey building comprising a mixed use development of offices (B1) on the ground and mezzanine floors, 21no one, two and three bedroom flats (including 6 affordable flats) (C3) on the upper floors, 22no car parking spaces, cycle storage, refuse/recycling facilities, photovoltaic solar panels and associated landscaping. Application withdrawn 20/03/2015.*

3.2 Pre-application advice

Following the withdrawal of **BH2014/03966** pre-application advice was provided by officers.

4. REPRESENTATIONS

- 4.1 **46** letters have been received from residents in the vicinity of the site, objecting to the proposed development for the following reasons:

4.2 **Traffic / Highways / Parking**

- The proposed parking is insufficient for offices and 23 flats. On-street parking is already in high demand, staff from the Legal and General office, and from C Dugard, park on the streets around the site during the day. During office hours there are no spaces available for visitors and driveways are frequently blocked. The proposed development will make a bad situation worse, adding further stress and conflict to the residential streets.
- The proposed office use may employ up to 27 people but only one parking space is proposed; a disabled space. There are no spaces proposed for visitors. The proposed development will increase demand for on-street parking and no survey has been carried out to justify whether this increased demand can be accommodated.
- As part of any development Orchard Gardens should be granted a controlled parking area based on the increased traffic flow and parking issues brought about by this development.
- The proposal will cause increased traffic, congestion and pollution, and increased dangers for pedestrians. Morning traffic is already gridlocked and manic.

- Future residents may choose to park on the street rather than using the stacked parking spaces proposed.

4.3 **Neighbouring amenity**

- The proposed development, and in particular the top storey, would result in increased overlooking of neighbouring dwellings and gardens.
- The proposed building would be of an overbearing mass / height.
- The proposed development would result in increased noise and disturbance.

4.4 **Design**

- The proposed building is too tall, its bulk and size will be out of keeping with the prevailing character of the area.
- The submitted visuals are misleading and do not show the development in the context of the two storey dwellings on Nevill Road.
- A two storey development would be more acceptable.
- The proposal is an overdevelopment. If the offices were not proposed the building could be of a lower height.
- The proposed building is of poor design.
- The application site is not a landmark intersection which might justify a building of this height. The application submission does not justify the proposed height, mass and bulk.
- The approval of this scheme would set a precedent for the redevelopment of neighbouring sites to a similar scale / height.
- The proposed building is not substantially set back from the street as other buildings in the area are.
- It is not clear whether tree planting is proposed or not.

4.5 **Standard of accommodation**

- The proposal contains a disproportionate amount of single aspect dwellings, some of which are north facing. The flats may not receive adequate daylight.
- Some units will require non-openable windows and there is no indication of a ventilation system to draw in fresh air.
- An air pollution study has not been carried out.
- The proposed balconies would suffer noise disturbance and would not be usable.

4.6 **Construction works**

- The proposed development would cause disruption during its construction.

4.7 **Other matters**

- Imbalance of population density / the proposal is of a very high residential density out of keeping with the locality.
- Insufficient work has been carried out to investigate potential land contamination.
- The employment use of the site will be lost and may set a precedent for the loss of the employment uses on the adjacent sites.

4.8 **Councillor Vanessa Brown** objects to the proposal (comments attached).

5. CONSULTATIONS

External

- 5.1 **Brighton Archaeological Society:** The proposed development lies close to the location of a possible Roman site, indicated by finds of pottery and roofing tile. Hove Park has also had finds of Neolithic flintwork. The Brighton and Hove Archaeological Society would suggest that you contact the County Archaeologist for his recommendations prior to any approval of this planning application.
- 5.2 **County Archaeologist:** Although this application is situated within an Archaeological Notification Area, it is likely that the site has been significantly impacted by 20th century development. For this reason, I do not believe that any significant below ground archaeological remains are likely to be affected by these proposals. For this reason I have no further recommendations to make in this instance.
- 5.3 **Sussex Police:** In general terms I support the proposals in this application which will seek to create 2 commercial units on the ground floor, with residential apartments on the floors above. Provision for car parking has been made in the undercroft area with access controlled for both pedestrians and vehicles. The proposals also allow for secure storage of bicycles and bins. Access to the upper floor residential apartments should be controlled by communal entrance doors with appropriate access control and no trades buttons.
- 5.4 The Design and Access Statement failed to make any reference to crime prevention or community safety in the proposals for this development and I would encourage the applicant to consider adopting all appropriate crime prevention measures using the principles of Secured by Design and the attributes of safe, sustainable places.
- 5.5 **Southern Water:** Our initial investigations indicate that Southern Water can provide foul and surface water sewage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer.
- 5.6 It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order
- a) Adequate soakaway or infiltration system
 - b) Water course
 - c) Where neither of the above is practicable sewer
- 5.7 Southern Water supports this stance and seeks through appropriate Planning Conditions to ensure that appropriate means of surface water disposal are proposed for each development. It is important that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development. When it is proposed to connect to a public sewer the prior approval of Southern Water is required.

- 5.8 Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.
- 5.9 Following initial investigations, Southern Water can provide a water supply to the site. Southern Water requires a formal application for connection and on-site to be made by the applicant or developer.
- 5.10 The detailed design for the proposed basement should take into account the possibility of the surcharging of the public sewers. We request that should this application receive planning approval, the following informative is attached to the consent: "Detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding."
- 5.11 The proposed development would lie within a Source Protection Zone around one of Southern Water's public water supply sources as defined under the Environment Agency's Groundwater Protection Policy. Southern Water will rely on your consultations with the Environment Agency to ensure the protection of the public water supply source.
- 5.12 Conditions and informatives are recommended.
- 5.13 **Environment Agency:**
We have reviewed the Preliminary Ground Contamination Risk Assessment Report (Report Number: H18920/ds June 2016). A number of potential sources of contamination have been identified from the sites current use as a vehicle repair workshop, paint spraying workshop and vehicle washing facility.
- 5.14 The bedrock present beneath the site is the Lambeth Group, this is designated as a secondary aquifer but these deposits are likely to be relatively thin at this site and may be removed in the excavation of the basement. These are underlain by the Tarrant Chalk, which is designated a Principal Aquifer. The site lies within the Source Protection Zone 1 for the Goldstone groundwater abstraction which is approximately 500 north of the site.
- 5.15 **Development on land affected by contamination**
The previous use of the proposed development site as a vehicle repair workshop, paint spraying workshop and vehicle washing facility presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is within Source Protection Zone 1.
- 5.16 The Preliminary Ground Contamination Risk Assessment Report (June 2016) submitted in support of this planning application provides us with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken.

- 5.17 In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a site investigation and remediation strategy, carried out by a competent person in line with paragraph 121 of the National Planning Policy Framework. Piling Using penetrative methods, such as piling, can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways.
- 5.18 Overall, no objections to the proposed development, subject to the inclusion of the following recommended conditions relating potential land contamination and piling.
- 5.19 **East Sussex Fire Service:** No comments received.

Internal

5.20 Planning Policy:

City Plan Policy CP3.5 Employment Land relates to the protection of unallocated employment sites in the city. The purpose of the policy is to protect those sites for B1, B2 and B8 uses unless they can be demonstrated to be redundant and incapable of meeting the needs of alternative employment uses (Use Classes B1-B8). The policy does not restrict changes between the B use class. The concern will be to ensure that this mixed use redevelopment proposal represents an effective use of the site, with uses that are compatible with adjacent uses and the re-provision of an appropriate amount, layout and design of B1a (office) floorspace that will be attractive to the market and lead to the units successful take up.

- 5.21 The proposed employment floorspace is less than the previous, withdrawn scheme and this is to be regretted. However the applicant indicates that the revised scheme addresses site constraints and provides improved access, public realm and neighbouring amenity. It is unclear whether this revision in amount of employment floorspace is also as a result of addressing concerns with the previous scheme raised by the local planning authority and this should be carefully considered by the case officer. It is acknowledged that the office units have the potential to generate a higher job density on the site than that currently. Economic Development should be consulted on this application.
- 5.22 It is important to ensure the configuration and layout of the two office units meets the needs of small growing businesses looking for business space and in particular that there is sufficient flexibility to ensure that the units will attract a range of potential end users in this location. It would be helpful to understand the how the particular demand for office space in this location has informed the configuration and layout of office units, the types of businesses that space seeks to attract and an indication of the marketing strategy that will be employed to ensure the successful take of the office units.
- 5.23 The applicant is proposing 9 x 1 bed intermediate housing. With respect to the unit size of affordable housing element of the proposal Policy CP20 indicates the preferred mix of unit size across the city – is 30 % 1 bedroom, 45% 2 bedroom and 25% 3 bedroom units and it is regretted that all of the units are 1

bedroom units. The Housing Strategy Team should be consulted on this application.

- 5.24 The applicant has indicates that the all the flats will meet the higher optional access standards set out in Building Regulations Part M(4) Category 2 but it is unclear from the design and access statement and Planning Statement if one of the units meets the higher Part M(4) Category 3 fully wheelchair accessible standard. This should be clarified by the applicant.
- 5.25 Policy CP16 sets out the open space requirements for new development. It is not clear how this has been addressed by the applicant.
- 5.26 **Air Quality Officer:** The development site is close to the boundary of the Air Quality Management Area declared in 2013. Nitrogen Dioxide above legal limits has been monitored within a few metres of the Old Shoreham Road – Sackville Road Junction.
- 5.27 The area that exceeds the annual mean air quality standard for nitrogen dioxide (human health) is likely to include the neighbouring plot to this development. That said we are satisfied that beyond all reasonable doubt the development premises is compliant with the national Air Quality Strategy. Future residents will live in good air quality. Approve of front gardens, tree planting and the building façade set back from Nevill Road. Agree with non-residential land use on the ground floor closest to the nearest road carriageway (that has localised emissions due to the stop-start nature of the traffic).
- 5.28 The transport assessment indicates a net reduction of traffic movement. The proposal is predicted to be a benefit in comparison with the extant planning use. Therefore the emission cost calculator is not required.
- 5.29 Construction Environment Management Plan routing condition is set out below. We recommend that before surfacing the new car park wiring is in place for electromotive charging. Early 2017 electric cars represent 4% of new car sales with market share predicted to increase substantially. Users of electric and hybrid vehicles increasingly seek to charge their vehicles at their place of work or home. As this site is on the boundary of the Air Quality Management Area it is an ideal location for electromotive infrastructure.
- 5.30 It is recommended central heating and hot water systems are electric. The 2014 planning application for this site includes an array of photovoltaics. This would be one way of avoiding on-site combustion with emissions to air across the AQMA. If any combustion on site is required this should be ultralow NOx gas boilers with emission of < 16 mg/kwh.
- 5.31 **Environmental Health:**
A Noise Assessment report for 65 Orchard Gardens, Hove has been undertaken by Acoustic Associates Sussex Ltd (ref: J1537), dated the 22nd.

- 5.32 Ambient noise levels, which are dominated by traffic noise, were assessed. Additionally, industrial noise from the adjacent Kwik fit were also assessed under BS4142:2014.
- 5.33 **Ambient Noise (Traffic)**
This assessment was undertaken through unattended noise monitoring on the roof of the Panel works with a clear view of Old Shoreham Road between the 11th and 17th November 2011. I would note that a further attended measurement taken on the 10th June 2016 in order to verify that the data from 2011 was still relevant.
- 5.34 The Free-field noise readings were on average: 63dB(A) during the day and 56dB(A) during the night. The results were then fed into a noise modelling software package IMMI, which shows that for varying reasons different flats will experience different external noise level, with noise levels at the front of the build ranging from 60dB(A) to 67dB(A) during the day.
- 5.35 The proposed windows at the front façade look to attenuate noise levels by 33dB(A) and therefore, internal noise levels will be 27dB(A) to 34dB(A) during the day. If windows are open, then there is 15dB attenuation due to the façade, which means that internal levels would be 45dB(A) to 52dB(A). Therefore, in order to achieve internal noise levels according to BS8233:2014, the windows will need to be kept shut and alternative ventilation incorporated into the building.
- 5.36 The report has suggested that trickle vents can be fitted provided they achieve a $D_{n,e,w} \leq 36$.
- 5.37 It is noted that noise level on balconies with a view of the road will be higher than the WHO criteria. However, it is agreed occupants of the building will have numerous quiet outdoor amenity areas within a short walk of the development (beach, Hove Park etc.) and that the alternative would be to not provide balconies.
- 5.38 **Industrial Noise**
The assessment under BS4142:2014 concluded that the dwellings in the proposed development will likely be exposed to an industrial noise rating level of 48dB(A) or below, with the occasional L_{Amax} reaching up to 65dB(A). According to BS4142:2014, the noise is therefore likely to have a low impact.
- 5.39 It is noted that the ambient noise levels are mostly due to traffic and are measured to show an L_{Aeq} of 60/67dB(A). Therefore, the dominant noise affecting the most exposed flats to industrial noise will actually be traffic noise. Whilst traffic noise will be slightly quieter when Kwik fit begin to operate in the morning at 8.00/8.30am, according to the raw data, traffic noise will still likely be higher than the rating level.
- 5.40 I would note that I did visit the site, and spoke to one of the Kwik fit workers while there. While they agreed in principle that air tools probably only made up a small percentage of their work, they stated that this was really dependant on the

work they had in. On certain days air tools may be used for the majority of their work. Having reviewed the data, I don't believe this will significantly change the findings.

- 5.41 The condition recommended below will expect noise levels internally to comply with BS8233:2014 and this will require both glazing and ventilation to be fitted in the most affected facades.
- 5.42 Therefore the flats on the front façade, which may be most affected by the industrial noise, will be protected by suitable glazing and ventilation, and provided windows are kept closed, acceptable internal noise levels should be achieved. However, there is still the possibility that future residents will leave their windows open, particularly in the summer months. Therefore the commercial operations at Kwik fit could occasionally be audible inside the future bedrooms in the mornings and in particular in the bedrooms of flats looking out the front facade.
- 5.43 This means that complaints could be made to the local authority and these will have to be investigated under Statutory Noise Nuisance Legislation. If complaints are found to be justified and it is judged that a Statutory Nuisance exists due to noise from Kwik Fit, then a Noise Abatement Notice would have to be served on the person responsible, which will be the business. Kwik Fit would have to prevent noise from causing a Statutory noise nuisance in adjacent premises.
- 5.44 In this particular instance, since the windows that are most likely to be exposed to industrial noise are also very exposed to traffic noise which is directly beneath them, it is unlikely that the average person will have these windows open early in the morning. There is also an element of buyer be-ware: it is obvious that these flats are situated very close to a busy road junction and next to a Kwik fit. Therefore, commercial noise from Kwik Fit should not be unexpected and this would be considered when assessing any complaints under Statutory Noise Nuisance legislation. Additionally, Kwik fit's operating hours are not currently exceptionally early for a commercial location (they open at 8.30am).
- 5.45 Unfortunately, the design and location of the proposed building cannot easily design out all of the industrial noise so that its rating level is 5dB below background noise level at the worst affected flats. It is however noted that the façade immediately adjacent to Kwik Fit is sensibly designed to be mostly a brick wall with very few openings in it, and the windows to the bedrooms face out to the road.
- 5.46 It is also noted that one measure Kwik Fit could take without any costs if they received complaints about noise in the morning, is to keep the door closest to the flats closed until later in the day. This may not completely resolve any future noise complaints, but it should help and may reduce noise levels to a point whereby it does not cause a Statutory Noise Nuisance.
- 5.47 Therefore, taking the noise issues and potential resolutions into consideration, overall this plan can be recommended for approval with the noise conditions

below. It should be noted that in addition to the comments above there are also conditions recommended to ensure that commercial noise from the premises planned beneath the flats do not affect future residents.

5.48 It is noted that lifts and stairwells have been placed away from habitable rooms, managing noise levels from these sources by design.

5.49 **Air Quality**

Sam Rouse, the air quality specialist will comment on this. Comments about air quality may have an impact on the design required for the future ventilation of the building.

5.50 **Contaminated Land**

This was a Phase 1 Environmental Assessment undertaken by Gyroury Self Consulting Engineers (ref H18920/ds), dated June 2016. This report has been subsequently scrutinised to ensure that it is robust. The report identifies several source-pathway-receptor linkages, and therefore suggests that further intrusive works are necessary. It is important to note though that the current conclusions are based on the current plans, and that should soft landscaping be proposed in the future that other potential linkages will likely need to be considered.

5.51 **Recommendation:** Approve with conditions

5.52 **Housing Strategy:**

This application is for 23 properties including 40% affordable which equates to 9 properties. To meet the Affordable Housing Brief the provision should provide the 9 units as 55% Affordable Rent (5 units) and 45% shared ownership (4 units). The affordable housing is offered as 9 x 1 bed units which would not be acceptable – details of a preferred unit split is outlined below.

5.53 **Tenure**

The Affordable Housing Brief sets out a broad tenure split of 55% Social Rent or Affordable Rent and 45% Intermediate (e.g. Shared Ownership sale) as a citywide objective. At this scheme this equates to 5 units for affordable rent and 4 properties for shared ownership sale.

5.54 **Design**

Affordable housing units should be indistinguishable from market housing in the scheme's overall appearance. The scheme will need to meet Secure by Design principles as agreed by Police Architectural Liaison Officer.

5.55 The council requires 5% of all housing in new developments to meet wheelchair standards and 10% of affordable housing. The Council's wheelchair accessible standard requires that it meets national technical standards Part 4 M4 (3)2b at build completion (i.e. at time of letting/ sale).

5.56 Which flat would be wheelchair accessible at completion is not identified in the application.

5.57 **Affordable Unit Sizes**

To ensure that all new homes developed are of a good standard that is flexible, adaptable and fit for purpose, our Affordable Housing Brief offers support for schemes that meet the new nationally described space standards.

5.58 In this instance the unit sizes all exceed the minimum space standards, so space standards will be met whichever units are allocated as affordable.

5.59 NB: Wheelchair units have specific space standards relating to living space that should also be met but these units are not identified on the plans.

5.60 **Unit size/type**

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. To be AHB compliant this would require the following mix:

3x (30%) one bed units, 4x (45%) two bed units, 2x (25%) three + bed units

5.61 The unit mix offered is currently 9 x 1 beds only. In addition the one bedroom units are spread across all floors of the development which may make transfer to an RP owner difficult (although not impossible).

5.62 Inspection of the plans shows that division to create a separate core for the affordable housing can be achieved by dividing the building just north of the southern lift shaft.

This creates a core including the following unit mix/ % of affordable: 5x 1 beds (56%), 3x 2 beds (33%), 1x 3 beds (11%)

5.63 This mix does not meet the AHB requirements but would be an acceptable compromise.

5.64 Family housing and wheelchair housing for affordable rent are particularly welcomed.

- Housing welcomes the inclusion of the policy compliant number of units as 9 (40%).
- Confirmation of the tenure mix is required

5.65 However the scheme can only be fully supported by Housing if :

- Unit type mix is adjusted to more fully reflect the Brief
- Wheelchair housing requirements comply with the Brief.

5.66 **Updated comment following revisions to proposed affordable housing provision:** Awaiting comments.

5.67 **Economic Development:**

City Regeneration support this application as the proposed development will create much needed housing (in the form of 23 dwellings) and office space which will create indicated 27 employment opportunities, which is in line with the

OffPAT Employment Density Guidance. The planned relocation of the business operation will hopefully provide continuous employment for existing staff with the potential for additional opportunities should the location and size of new premises support this. Should this application be approved, through a S106 Agreement, City Regeneration request the submission of an Employment and Training Strategy in respect of the demolition and construction phases, one month before the site goes live, 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 phase (where appropriate, due to the specific skills required) and construction phase.

- 5.68 Also, if approved, in accordance with the Developer Contributions Technical Guidance, City Regeneration requests a contribution, through a S106 agreement, towards the sustainability of the council's Local Employment Scheme and to fund training that may be required, specific to the site, in order for local residents to access opportunities on site and meet contractors' and sub-contractors' needs. The required contribution in respect of the proposed residential development is calculated as £7500.
- 5.69 Commercial development (B1)- Gross new office space (BI) 324 sq mtrs which is under the threshold to enabling a request for developer contributions. Therefore, total developer contributions requested for whole development £7500
- 5.70 **Recommendation:** Approve
- 5.71 Subject to an Employment and Training Strategy being submitted one month prior to site commencement (including demolition) and a developer contribution for the sum of £7500 made prior to commencement of the construction phase.
- 5.72 **Sustainability:**
The residential scheme proposes 23 new dwellings. Policy CP8 sets mandatory minimum standards for energy and water efficiency for these units which these units must meet as a minimum. This standard is committed to and should be conditioned.
- 5.73 The non-residential scheme proposes office accommodation on the ground floor which will include two commercial units of 119msq and 205msq floor space (324m2 total). This falls within the 'medium' scale category and under CP8 is expected to achieve BREEAM 'very good'. (The medium scale category ranges from 236 – 1000sqm). BREEAM 'excellent' is committed to but because the standard set in policy in 'very good' this standard should be conditioned as a minimum.
- 5.74 Policy CP8 sets out issues relating to sustainability that should be addressed by applications. These include: addresses climate change mitigation and adaptation; minimisation of greenhouse gas emissions; use of renewable technologies; decentralised energy; water neutrality; improvements to existing buildings; health; use of design, orientation, form, layout, landscaping and materials (passive design) to maximise natural light and heat; reduces 'heat

island effect' and surface water run-off; sustainable materials; enhance biodiversity; minimises waste and facilitates recycling, composting; reduces air, land and water pollution; ongoing improvement of building performance; encourages users to reduce their ecological footprint; is adaptable to changing needs; and encourages food growing.

- 5.75 A Sustainability Checklist submitted by the agent for this development has some erroneous and contradictory entries around energy. Entries state a SAP rating of 124 (SAP is a rating of energy efficiency in a scale that runs from 1 to 100 where 100 is zero carbon so this entry is erroneous). In addition, the data input to the checklist states that the scheme will include solar hot water panels, individual gas boilers and Gas CHP communal system, These are all heat producing technologies, and in a rational scheme, multiple different technologies would not be installed to produce heat, it would not be cost effective or efficient. Hence it must be assumed that these entries are inaccurate.
- 5.76 Commitment is given to achieving the minimum energy and water efficiency standards as set out in Policy CP8 of 19% reduction in CO2 emissions over Part L Building Regulations requirements 2013; and water efficiency standards of 110 litres/person/day.
- 5.77 Renewable energy is proposed as part of the scheme in the form of roof mounted solar panels. Approximately 56 panels (approximately 120msq) are shown on the roof plan. These are welcomed.
- 5.78 The above measures are the only measures referred to in the application that address policy CP8. Against other areas of sustainability, the Sustainability Checklist responses indicate that no action is being taken to address policy CP8: no passive design measures; no green walls or roofs; no food growing; no measures to minimise risks associated with flooding; no open space created; no habitats created; no site wide waste management plan.
- 5.79 The Design and Access makes just one reference to sustainability in the context of an irrigation system for planters using diverted rainwater. This is not sufficient to address policy CP8.
- 5.80 It is recommended that the applicant be asked to resubmit the Sustainability Checklist with accurate information about energy and further information that clarifies how the scheme will address policy CP8.
- 5.81 The scheme is situated adjacent to Development Area DA6. The City Plan states that: under local priority 10: Development within this area will be encouraged to consider low and zero carbon decentralised energy and in particular heat networks and to either connect where a suitable system is in place (or would be at the time of construction) or design systems so that they have capacity for future connection to a network.
- 5.82 To address this policy, a condition should be applied to ensure that if a communal heating system is installed, it should have capacity for future connection to a DA6 heat network. The proposal for a communal heating

system is implied in the Sustainability Checklist by suggestion for gas CHP, but due to erroneous entries, and no clarification of energy strategy elsewhere in the application, it is not clear whether this reference is accurate or not.

- 5.83 In the event of approval, the following conditions should be applied:
- Standard condition for minimum energy and water efficiency for new dwellings
 - BREEAM 'very good' New Construction for non-residential development.
 - Condition to secure capacity to connect to a future heat network
- 5.84 **Further comments following the submission of an amended sustainability checklist:** Awaiting comments.
- 5.85 **Flood Risk Officer:**
Recommended approval as the Lead Local Flood Authority (LLFA) has no objections to this application subject to the inclusion of the condition below:
- 5.86 No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the Sustainable Drainage Report and Flood Risk Assessment, March 2016 has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the building commencing. To ensure that the principles of sustainable drainage are incorporated into this proposal.
- 5.87 **Transport:**
Pedestrian Access It is proposed that the commercial units will be accessible primarily from Nevill Road and the residential from Orchard Road. The latter includes a direct stairwell access together with a 1.2m footway alongside the vehicle access.
- 5.88 The Highway Authority has no objections to these arrangements. Wider footway widths of 2m/ 1.5m are typically specified; however, given the purpose of the car park access, that this width is sufficient for a wheelchair to pass in accordance with the Department for Transport's Inclusive Mobility guidance and that the access will have low vehicle and pedestrian flows, no objections are raised in this instance.
- 5.89 The applicant should note however that there are currently telecommunications cabinets at the back of footway where the intention is to provide a pedestrian access into the site from Nevill Road. At least one of these will need to be relocated with the agreement of the Highway Authority and the operator of the telecommunications cabinet.
- 5.90 **Vehicle Access**
The applicant is intending to retain the existing vehicle crossover from Orchard Gardens to which the Highway Authority has no objections. The access road

within the site is approximately 4.8m wide which would be sufficient for two cars to pass should they enter and exit the site at the same time.

5.91 The car park access appears to be gated; however, this is set back approximately 7m from the footway which would provide sufficient space for a vehicle to wait whilst gates open without obstructing the footway.

5.92 **Car Parking**

SPD14 states that the maximum car parking standard for a residential development in the outer area is 1 space per dwelling plus 1 car space per 2 dwellings for visitors. The standard for office space (B1) is one space per 50m². Therefore for this development of 23 residential units and 324m² of office space, the maximum car parking standards comprise 23 residential spaces, 12 visitor spaces, and 7 office spaces (42 spaces in total).

5.93 The applicant is proposing a total of 23 parking spaces including 3 for disabled users. One disabled bay is allocated to the office space, while the remaining 22 spaces (including 2 disabled) will be provided to the residential units in a two-tier stacking system. It is recommended that the implementation and continued maintenance of this be secured by condition.

5.94 Given that the surrounding area can experience high levels of on-street parking stress, the applicant has tried to demonstrate that the proposed car parking levels will not lead to overspill car parking.

5.95 **Existing overspill parking**

The applicant has acknowledged the Highway Authority's comments on **BH2014/03966** where there was concern that current overspill parking had been overestimated and would therefore underplay the impact of the proposed development. The applicant's Transport Consultant has now made adjustments for expected mode share by current staff (as opposed to assuming all drive) in line with the Highway Authority's recommendations and the revised estimate of 8-10 vehicles is considered reasonable.

5.96 **Proposed office overspill parking**

The Highway Authority previously raised a concern in comments on **BH2014/03966** that the forecast overspill parking for the proposed office use was based on central London surveys within the TRICS database. These were not considered suitable owing to on-street parking controls and very good accessibility by sustainable modes.

5.97 The applicant has stated that although the site is outside of a Controlled Parking Zone, parking restraint would be appropriate as the site is within a sustainable location. The Highway Authority would however consider that the absence of on-street parking controls would increase the likelihood that employees will drive to work.

5.98 The applicant has estimated future parking demand based on drive-to-work rates from comparable sites at City Park and BHCC Housing Centre provided in the Highway Authority's comments on **BH2014/03966**. The proposed office

space has also reduced from 621m² (34 staff) to 324m² (18 staff). As a result, additional overspill parking by approximately 10 vehicles is forecast. However, the application form and Planning Statement indicate that the site would accommodate on average 27 employees. This would suggest approximately 15 staff would be expected to drive.

- 5.99 The applicant's Transport Consultant has also used TRICS surveys to suggest that parking demand would be lower at approximately six vehicles based on an average peak parking accumulation of 1.89 per 100m². It should be noted however that although all the selected sites have on-site parking, two are located in Controlled Parking Zones and TRICS indicates that the third (survey reference WK02A01) does not have access to free on-street parking.
- 5.100 Although the above analysis may therefore underestimate parking demand, the previous analysis based on 27 employees does suggest all employees will be on-site at any one time which would overestimate demand. Were the higher level to materialise, additional daytime demand of approximately five vehicles would be expected compared to ten for the withdrawn application.
- 5.101 In order to mitigate the impact of overspill parking that does occur from the permitted use, the Highway Authority had previously recommended that travel packs be provided for both the office and residential uses. The updated Transport Statement includes a Travel Plan Statement which commits to this, including the provision of taster public transport vouchers. It is recommended that these be secured as part of the S106 agreement.
- 5.102 On this basis, it is no longer considered that the additional on-street parking demand that is likely to arise during the day would be of a level that could be deemed to amount to a 'severe' impact and therefore warrant refusal on these grounds under the National Planning Policy Framework.
- 5.103 **Proposed residential overspill parking**
The applicant previously proposed 21 car parking spaces for 21 flats and now proposes 22 spaces for 23 flats. The ratio is therefore similar and the Highway Authority's comments remain consistent with the response to BH2014/03966. This is that analysis of 2011 Census data (Brighton & Hove lower super output area 007A) suggests demand of approximately 1.36 per household or a total of 31 in this instance. This would suggest overspill parking by approximately nine vehicles could be expected compared to seven previously.
- 5.104 The applicant's Transport Consultant has used the Department for Communities and Local Government (2007) Residential Car Parking Research to estimate that parking demand would not exceed 19 spaces. Whilst the census data indicates a higher level, the latter provides an area average which would be expected to be lower for flats. It is also noted that the applicant does not propose to allocate spaces to individual dwellings which will allow for a more efficient use of the parking proposed and reduce the likelihood of overspill parking.

5.105 Taking into account this analysis and the package of mitigation proposed by the applicant to include a residential travel pack and car club membership, the Highway Authority does not consider the potential overspill parking from the residential development to be material or warrant refusal in this instance. As stated above, it is recommended that the travel plan measures the applicant has committed to be secured as part of the S106 agreement.

5.106 Disabled Parking

SPD14 states that the minimum standard for disabled parking is an individual bay for each disabled employee plus 2 bays for the office and one space per wheelchair accessible unit for the residential use.

5.107 The applicant is proposing 3 disabled parking spaces (2 for the residential and 1 for the office development). This level of provision for the office development is below the minimum standard contained within SPD14; however, it accords with advice contained within the Department for Transport produced TAL 5/95 Parking for Disabled People. This guidance document suggests 5% of the total car parking should be set aside as disabled bays at business premises. In light of this, the Highway Authority has no objections to the proposed number of disabled bays for the office.

5.108 It is also important that a 1.2m clear zone is provided to both sides of each bay as outlined in TAL 5/95. The disabled car parking layout details should be provided by condition. In the case of the proposed stacking system, it would be important to ensure sufficient level clearance at the point that vehicles are accessed.

5.109 Electric Vehicles

Since the applicant's original submission, SPD14 has been adopted which includes a requirement for electric vehicle charging points. For residential uses, this requires 10% provision plus 10% 'passive' provision whereby the facilities are in place for additional points to be provided as future demand requires. The proposed development would therefore require a minimum of 3 charging points plus 3 passive charging points. It is recommended that further details be obtained by condition.

5.110 Cycle Parking

SPD14 states that a minimum of 1 cycle space is required for every 1-2 bedroom unit plus 1 space per 3 dwellings for visitors. For the 3 bedroom units, 2 spaces are required per unit for residents with an additional one space per 3 units for visitors.

5.111 The minimum standard for B1 office space is 1 space plus 1 space per 100m² plus an additional space per 500m². Therefore, for this development minimum cycle parking requirements are as follows:

- 20 cycle spaces for 1-2 bedroom units
- 6 cycle spaces for 3 bedroom units
- 8 visitor spaces for those visiting residents
- 5 staff cycle spaces

- 2 visitor cycle spaces for the office units
- 5.112 The minimum cycle parking requirement for this development is therefore 41 cycle spaces. The proposals detail 42 cycle spaces as follows:
- 24 resident
 - 6 office
 - 12 visitor
- 5.113 The cycle parking provision meets minimum cycle parking standards; however, the Highway Authority would seek further clarity as to the nature of the stands.
- 5.114 The applicant should be advised that in order to be in line with Policy TR14 of the Brighton & Hove Local Plan, 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 Manual for Streets section 8.2.22. Vertical or semi-vertical racks are not accepted.
- 5.115 **Deliveries and Servicing**
There is forecast to be a reduction in the level of servicing associated with the proposed development when compared with the existing land use of a vehicle repair garage. Servicing could either take place from within the on-site car parking area of on-street adjacent to the site.
- 5.116 **Trip Generation**
The applicant has forecast that there will be an increase in total person trips as a result of this development, forecasting an increase from 179 to 219 trips. The reduction in forecast trips for the proposed development compared to the withdrawn application is not unexpected given the reduction in size of the office element; however, the justification for the increase in existing trips (and reduced net impact) is unclear. In the absence of daily surveys for the existing site (peak vehicle surveys are provided), the previously submitted figure of 146 person trips has been used for the purposes of assessment. This would suggest an increase of approximately 73 person trips across the day.
- 5.117 **S106**
To comply with the Brighton & Hove City Plan Part One policies CP7 and CP9 and the council's Guidance on Developer Contributions, the applicant is expected to make a financial contribution of £11,000.
- 5.118 **Recommendation:** Recommended approval subject to the following S106 agreement and necessary conditions.
- 5.119 **Ecology:**
Designated sites and Protected Species
1. The biodiversity checklist submitted with the application was negative for all indicators, indicating that the proposed development is unlikely to have any significant impacts on biodiversity.

2. There are no sites designated for their nature conservation interest that are likely to be impacted by the proposed development.
3. The site is unlikely to support any protected species and therefore no specific mitigation is required. If protected species are encountered, work should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.

5.120 **Mitigation Measures/Enhancement Opportunities**

4. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF. Opportunities include the use of species of known wildlife value within the landscape scheme, green (biodiverse) roofs and/or walls, and the provision of bird boxes which should target species of known conservation concern. Advice on appropriate species can be found in the Council's SPD 11, Annex 7 Notes on Habitat Creation and Enhancement. Where possible, native species of local provenance should be used.

5.121 **Summary**

In summary, provided the recommended mitigation measures are implemented, the proposed development should not have an adverse impact on biodiversity and can be supported from an ecological perspective. The site offers opportunities for biodiversity enhancements that will help the Council address its duties and responsibilities under the NERC Act and NPPF.

- 5.122 **Public Art:** Adopted 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; CP7 seeks development to contribute to necessary social, environmental and physical infrastructure including public art and public realm; and CP13 seeks to improve the quality and legibility of the city's public realm by incorporating an appropriate and integral public art element.

5.123 Type of contribution-

To safeguard the implementation of these policies, it is important that instances in which approval/sign off from the council is needed is clearly identified and secured.

5.124 Level of contribution-

This is arrived at after the internal gross area of the development (in this instance approximately 2,387sqm) is multiplied by a baseline value per square metre of construction arrived at from past records of Artistic Component contributions for this type of development in this area. This includes average construction values taking into account relative infrastructure costs.

- 5.125 It is suggested that the Artistic Component element for this application is to the value of £18,600.

- 5.126 To make sure that the requirements of Policies CP5, CP7 and CP13 are met at implementation stage, it is recommended that an Artistic Component schedule be included in the section 106 agreement.
- 5.127 **Education:** Attached are two spreadsheets which show the level of contribution towards education infrastructure that would be expected if this development was to proceed and the number of pupils that are likely to be generated by the development. In the spreadsheet which calculates the contribution I have included all the units as private housing in line with the agreement on this matter. The second spreadsheet, which calculates the number of pupils likely to be generated by the development, uses the correct split between private and affordable units. This is for information only and does not affect the outcome of the calculation for the contribution.
- 5.128 The calculation of the developer contribution shows that we would be seeking a contribution of £38,430.00 towards the cost of primary, secondary and sixth form provision if this development was to proceed. The primary provision would be likely to be spent at Aldrington CE Primary, Brighton and Hove Bilingual Primary, West Hove Infant and Junior Schools, St Andrews CE Primary, or Goldstone Primary School as they are the closest primary's to the development. These schools currently offer a total of 3,315 places and there are currently 3,540 pupils on roll at these schools. This offers a surplus of just 9% (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 we 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.
- 5.129 With regard to the secondary provision the development is currently in the catchment area for Blatchington Mill and Hove Park Schools. Both of these schools are currently full and therefore it is entirely appropriate to seek a contribution in this respect.
- 5.130 **City Clean:** No comments received.
- 5.131 **City Parks:** No comments received.
- 5.132 **Sports Facilities and Development:** No comments received.

6. MATERIAL CONSIDERATIONS

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

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

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

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP3 Employment Land
- 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

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

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- 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
- QD25 External lighting
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:
SPD11 Nature Conservation & Development
SPD14 Parking Standards

Supplementary Planning Guidance:
SPGBH9 A guide for Residential Developers on the provision of recreational space

8. CONSIDERATIONS & ASSESSMENT

8.1 Background

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.

8.2 The most recent land supply position was published in the 2016 SHLAA Update (February 2017) which demonstrates a supply of 4386 units over five years which equates to a 5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF. The Agent for the application disputes this position and the methodology which the Council uses to calculate its housing targets. It is however the view of the council that his methodology is appropriate and a 5 year supply can be demonstrated.

8.3 Principle of Development

The loss of the existing employment use to be replaced with a mixed use development must be considered having regard to policy CP3 of the Brighton and Hove City Plan Part One which states that the loss of unallocated sites or premises in, or whose last use was, employment use (Use Classes B1-B8) will only be permitted where the site or premises can be demonstrated to be redundant and incapable of meeting the needs of alternative employment uses (Use Classes B1-B8). Where loss is permitted the priority for re-use will be for alternative employment generating uses or housing (in accordance with CP20 Affordable Housing).

8.4 The application proposes the demolition of the existing buildings on the site which in conjunction with the enclosed yard form a panelworks business / vehicle repairs (Use Class B2). The proposed building incorporates employment use at ground floor as 324m² office space (Use Class B1), with a ground floor car park and residential units above. There would be a loss of 321 sq. m of employment floorspace (currently 645m² sq. m B2 general industrial floorspace consisting of yard, workshops and office space). The office floorspace is

proposed to be provided in the form of 2 units of 119 sq. m and 205 sq. m floorspace accessed from Orchard Gardens and Nevill Road. The application submission sets out that the current use has 12 employees and that the proposed office use has the potential to accommodate 27 employees.

- 8.5 The existing use is not redundant; the site is in active use at present, has good transport links and access. The application submission indicates that the current business is seeking to relocate.
- 8.6 Whilst the development would result in the loss of the existing employment use, the proposed building would include the provision employment floorspace in the form of two office units. The application submission indicates that this employment space could accommodate 27 employees. Therefore, whilst the employment use of the site as a whole will be diluted, the office space proposed has the potential to deliver a net uplift in jobs. On this basis, and on the basis that the existing business is to relocate, the Economic Development Team support the application.
- 8.7 Furthermore, whilst the existing use (B2) is not incompatible with the neighbouring residential uses, it is of a nature which is more likely to generate noise disturbance than the proposed office use would be.
- 8.8 The Planning Policy Officer sought confirmation that the proposed office units have been designed in a way which responds to current market demands, to ensure that the proposed office units will be viable and will be likely to be occupied. A letter of support from a local surveyor / property agent has been submitted which sets out a view that the proposed office units would be likely to be in high demand so long as they are priced at market levels.
- 8.9 In addition to the proposed office use, residential units are proposed which include 40% affordable housing provision and a mix of unit sizes. The provision of new housing units is welcomed and would make a valuable contribution towards meeting the city's housing needs and targets.
- 8.10 Overall, whilst it is acknowledged that the proposed development will dilute the existing employment use of the site, the proposal would deliver a replacement employment provision along with 23 residential units. The principle of development is considered to be acceptable.
- 8.11 **The proposed employment use**
As detailed above, the proposed building would contain two office suites at ground floor level. The units would have a street frontage presence and would be well served by the existing road network and public transport links in the form of buses (nos. 5, 5A, 5B and 56) and train via Hove Station which is a 13 minute walk away (0.6 miles). The proposed offices would only benefit from one off-street parking bay in the form of a disabled space in the proposed ground floor car park. The lack of further off-street parking could discourage some potential future occupiers, however given the location of the application site it is considered that adequate public transport links exist to address this issue. The

potential impacts of overspill parking are of concern; this matter is addressed further below.

- 8.12 The letter of support from a local surveyor / property agent indicates that the proposed office units would be attractive in the current market, and overall the provision of office space is considered appropriate for the location.
- 8.13 **The proposed residential use / standard of accommodation**
The proposed building would comprise twenty three self-contained units from first floor up. The mix of units proposed is 9x 1-bedroom (39%), 11x 2-bedroom (48%) and 3x 3-bedroom (13%), which compares to the overall needs of the city as set out in Policy CP19 as 24% 1-bedroom, 34% 2-bedroom, and 42% 3-bedroom or more. The proposed mix of units in itself is not therefore reflective of the needs of the city as a whole, however as a flatted development close to the centre of the city it would be expected that the scheme would deliver a greater proportion of smaller units. A greater proportion of larger units would be expected in a more outlying development of a lesser density, such schemes considered cumulatively will work towards delivering an appropriate mix of units across the city.
- 8.14 Nine units are proposed as affordable dwellings with a policy compliant tenure mix (5 units for affordable rent and 4 properties for shared ownership sale). The proposed mix of affordable units has been amended during the course of the application from 9 1-bedroom units and is now proposed as 5x 1-bedroom (55%) and 4x 2-bedroom (45%) compares with a policy compliant mix of 3x 1-bedroom, 4x 2-bedroom, 2x 3-bedroom units. The applicant has stated that no 3-bedroom units have been proposed as affordable due to viability concerns, a detailed viability case has not however been submitted.
- 8.15 Whilst a policy compliant mix of unit sizes has not been agreed as affordable provision, which is regrettable, it is again noted that a scheme of this ilk is to be expected to deliver more smaller size units, and furthermore that 40% affordable units and an appropriate tenure mix have been agreed through discussions with the applicant. Overall it is considered that the mix of unit sizes and the proposed affordable housing provision are acceptable in this case.
- 8.16 In regard to unit size and layout, it is noted that all of the units proposed exceed the minimum size standards set out by Government (Technical Housing Standards – Nationally Described Space Standard, published March 2015). The units would provide good room sizes and circulation space. Representations received raise concerns in respect of the light levels which some of the units may receive; all units are however considered acceptable in this regard as set out in the submitted sunlight and daylight report. All of the units would benefit from the use of a balcony area and a landscaped communal garden area is proposed atop the ground floor car park to the eastern side of the site.
- 8.17 Future residents would be subjected to noise from traffic and the neighbouring commercial uses (and potentially the proposed office use), air pollution from traffic on Nevill Road and Old Shoreham Road is also a concern. A noise report has been submitted and the Environmental Health Officer and Air Quality Officer

have commented on the submitted information. It is concluded that noise nuisance could be successfully addressed through sound insulation measures and in respect of noise and air pollution it would be necessary to install a ventilation system to ensure that future residents do not need to open windows to receive fresh air. Sound insulation measures and details of a ventilation system are recommended to be secured by condition.

- 8.18 Future occupiers would benefit from off-street parking provision (22 spaces including two disabled spaces), secure cycle parking, and access to the second floor communal garden.
- 8.19 In regard to accessibility, it is proposed that Flat 18 (one-bedroom flat on the third floor) would be wheelchair accessible which represents 10% of the affordable housing provision and 5% of the overall number of housing units proposed. The remainder of the units are recommended to be secured by condition as compliant with Optional Building Regulations Standards.
- 8.20 Subject to the recommended conditions set out above, it is considered that the proposed units would deliver an acceptable standard of accommodation.
- 8.21 It is noted that there is an electricity substation immediately to the east of the site fronting on to Orchard Gardens, enclosed in a brick building. The substation would be sited alongside the car park area of the building; the substation would be unlikely to have a substantial negative impact upon neighbouring amenity.
- 8.22 **Design / visual impact**
N.B. For the purposes of local planning policy and guidance (SPGBH15, published 2004), the proposed building does not constitute a 'tall building' as it is below 18 metres in height.
- 8.23 The proposed building is five storeys in height with the top floor set back from the main building frontages. The building is set back from the boundary with the public highway to the west and north elevations, low boundary walls and planting is proposed including tree planting. To the southern end of the west elevation the parking area associated with Kwik fit sits in front of the proposed building, a wall / landscaping buffer is proposed behind this area. To the Nevill Road frontage the building presents a glazed office frontage at ground floor and a residential façade above. To the Orchard Gardens elevation a similar appearance is presented however a double height vehicular access is proposed with a shuttered entrance.
- 8.24 The proposed brick faced finish with rendered detailing takes some inspiration from the Kwik Fit building alongside and would also be in keeping with the finishes of the dwellings on Nevill Road and Orchard Gardens. The proposed design is considered to be of a good standard with considered structure, detailing form, and relief. A building of this scale will stand in contrast to surrounding development, and in particular to the dwellings on Nevill Road and Orchard Gardens which are of domestic scale. The commercial development to

the south of Orchard Gardens is however already of a contrasting commercial character, albeit at a smaller scale than is proposed.

8.25 It is considered that the proposed building will link visually with the larger more commercial scale of buildings which front on to the Old Shoreham Road and overall, whilst the proposed building will certainly be of prominence and contrasting scale, the building will have a positive impact upon the street scene. The proposed development successfully addresses the design challenges of the site.

8.26 Transport and Parking

As detailed above, the site is well served by public transport in the form of buses and Hove Railway Station. Twenty three parking spaces are proposed on site; all allocated to the proposed flats other than one of three disabled spaces which would be allocated to the office use. Vehicular access would be from Orchard Gardens as it is at present.

8.27 Cycle parking (42 spaces) is proposed within the ground floor car park and it is recommended that full details of this provision be secured by planning condition.

8.28 The applicant's submission sets out that the existing commercial use results in overspill parking of 8-10 vehicles, although this would be difficult to confirm given that a large part of the site at present is an enclosed yard where parking for staff may often be available. It is estimated that the proposed office use could generate demand for on-street parking of 15 staff vehicles plus visitors, although this is based upon all 27 employees being on site at the same time, which is unlikely to always be the case. The proposed residential use could result in an overspill of 9 vehicles, this last figure may however also be an overestimate as the development primarily comprises 1 and 2-bedroom flats rather than larger dwellings.

8.29 Representations received set out that on-street parking during the day is in extremely high demand from residents and their visitors and also from staff employed by surrounding businesses such as Legal and General and C. Dugard. It is noted that whilst a Transport Statement has been submitted, the applicants have not carried out any daytime parking surveys to demonstrate whether there is adequate capacity for the uplift in demand which would result.

8.30 Notwithstanding the absence of parking surveys, the Transport Team have commented upon the application submission and consider that subject to securing Travel Plan measures such as employee / resident travel packs consider that the potential overspill parking which would result is not at a level which warrants the refusal of planning permission.

8.31 On this basis, subject to compliance with the conditions set out above, the proposed development is considered to be acceptable in highways / transport terms.

8.32 Neighbouring amenity

The proposed building is of a considerable scale and therefore has the potential to have an overbearing and overshadowing impact upon neighbouring residential properties. There will however be a substantial spacing from residential properties as there is road between the application site and these dwellings. To the west of the site the properties on Nevill Road are set approximately 24 metres away from the proposed building, to the north no. 1 Nevill Road and no. 32 Orchard Gardens are set away by approximately 14-15 metres.

- 8.33 Given these distances, whilst the proposed building would substantially alter the outlook from these neighbouring properties, it is considered that an overbearing impact would not result.
- 8.34 In respect of overshadowing, a detailed Sunlight and Daylight has been carried out on behalf of the applicant in accordance with BRE guidance. The report sets out that some impact in respect of loss of daylight / sunlight will occur, but the resulting situation and change in circumstance would be within acceptable limits as set out in BRE guidance (Littlefair, P (2011) *Site layout planning for daylight and sunlight: a guide to good practice*). Having regard to the findings of this report is considered that significant harm would not be caused by overshadowing and that the application does not warrant refusal on such grounds.
- 8.35 In regard to privacy, the proposed building will cause additional overlooking of neighbouring dwellings and gardens from the windows and balconies of the proposed building. Again however it is noted that spacing between the building and neighbouring dwellings would be retained as they are sited over the road from the application site. In this context it is considered that the harm to neighbouring privacy which would be caused does not warrant the refusal of planning permission; the resultant relationship would be of an acceptable nature.
- 8.36 Representations received raise concerns in respect of noise disturbance. The proposed development would however see the removal of the existing use which is likely to generate noise disturbance, to be replaced with office and residential uses, which are in general considered to be compatible with surrounding residential uses. Use of the proposed garden area and balconies may cause some noise but the likely levels of activity are unlikely to cause significant harm to neighbouring occupiers.

Environmental Health

8.37 **Land contamination**

The site represents potentially contaminated land. A desktop study has been submitted in this regard. To address potential contamination a full site investigation and scheme of remediation should be carried out if necessary as part of the construction phase of the proposed development. It is recommended that a strategy be secured by planning condition.

8.38 **Noise disturbance to future residential occupiers**

Future residents would be subjected to noise from traffic and the neighbouring commercial uses (and potentially the proposed office use), A noise report has been submitted and the Environmental Health Officer has commented on the submitted information. It is concluded that noise nuisance could be successfully addressed through sound insulation measures and the installation of a ventilation system to ensure that future residents do not need to open windows to receive fresh air. Sound insulation measures and details of such a ventilation system are recommended to be secured by condition.

8.39 Air quality

There is an Air Quality Management Area to the south of the site. Whilst the air quality in this location is considered acceptable for future occupiers, the ventilation system required above will draw in fresh air from locations set away from the primary road frontages which will improve air quality for future occupiers.

8.40 The Air Quality Officer has recommended that a Construction Environmental Management Plan be secured by condition which details construction traffic routes which should be to / from the north of the site to avoid the AQMA.

8.41 The Air Quality Officer has also recommended that central heating and hot water systems are electric, or that if combustion on site is required to meet the shortfall of electric and renewables this should be ultralow NOx natural gas or bio-methane fuelled boilers for temperature control and hot water. A condition is therefore recommended to secure further details of the proposed central heating and hot water system.

8.42 Water source protection and surface water drainage

The Council's Flood Officer recommends that a full surface water drainage strategy incorporating sustainable urban drainage measure be secured by planning condition. Southern Water have recommended conditions and informatives in respect of drainage and connection to mains water and sewerage. The site lies within a ground water source protection zone and the Environment Agency's comments have been sought in this regard. At the time of drafting this report these comments had not yet been received and will be reported to members at committee if available.

8.43 Environmental Sustainability

In accordance with Policy CP8 the proposed residential units are recommended to be secured as compliant with Optional Building Regulation standards for energy and water usage by planning condition. The ground floor office use would be secured as a Breeam rating of 'Very Good'. An installation of photovoltaic panels to the roof of the building; full details of this array its implementation are recommended to be secured by planning condition.

8.44 The Sustainability Officer recommends that measures should be secured to ensure that the development can connect to a future district heating system, which relates to the objective within the Hove Station development area (Policy DA6) to consider low and zero carbon decentralised energy and in particular heat networks and to either connect where a suitable system is in place (or

would be at the time of construction) or design systems so that they are compatible with future connection to a network. The applicant has confirmed that they would not be in agreement to such a requirement, and as the application site is not actually within the DA boundaries (the northern boundary runs along Old Shoreham Road) it would not be reasonable to require such measures in this case.

8.45 Landscaping / biodiversity

Local Planning policies and guidance and the NPPF require high quality landscaping and that development deliver a net gain in biodiversity terms. In this case planting is proposed to the street frontages of the development and a large communal landscaped garden is proposed. These elements provide the opportunity to deliver substantial planting including species which will deliver biodiversity gains by for example utilising native species of local provenance and attracting wildlife. Full details of landscaping and biodiversity enhancements are recommended to be secured by planning condition.

8.46 Conclusion

The proposed development would result in the loss of the existing employment use; the new building would deliver replacement employment floorspace and a potential net uplift in the number of staff which would be accommodated. The proposed residential units would provide a good standard of accommodation, 40% affordable units and an acceptable mix of unit sizes. The proposed building design would appear in contrast to the prevailing character Nevill Road street scene, but would relate well to the larger buildings fronting on to Old Shoreham Road, and overall is considered to represent a good standard of design which would have a positive impact upon the Nevill Road and Orchard Gardens street scenes.

8.47 Some increased overspill parking would result however the Transport Team consider that this overspill would not cause significant harm subject to securing other measures such as Travel Packs and infrastructure improvements.

8.48 The proposed building would result in some additional overshadowing of neighbouring properties however significant harm would not be caused as demonstrated in the submitted sunlight and daylight report.

8.49 Other matters such as sustainability measures, sound insulation, landscaping and biodiversity enhancements are recommended to be secured by condition.

8.50 Overall it is considered that the scheme would deliver substantial benefits and significant harm would not be caused. Approval of planning permission is therefore recommended subject to the completion of a s106 planning legal agreement and to the conditions recommended above.

9. EQUALITIES

9.1 The scheme would provide for 40% affordable housing. Conditions are recommended to secure 10% of affordable units and 5% of units overall as

wheelchair accessible, the remaining units to be constructed to optional Building Regulations access standards.

10. DEVELOPER CONTRIBUTIONS

10.1 **Sustainable Transport:** Based upon the current adopted Developer Contributions Technical Guidance and established formulae, the securing of Travel Packs and an £11,000 contribution to sustainable transport infrastructure to be allocated towards the following:

- Hove Park Tavern north bound bus stop in the form of a bus shelter or Real Time Information sign and/or
- Pedestrian improvements in the immediate vicinity of the site to improve access to local facilities.

10.2 **Education:** Based upon the current adopted Developer Contributions Technical Guidance, £38,430 towards the cost of providing primary (£14,851), secondary (£20,192), and sixth form (£3,386) education provision.

10.3 **Open space and indoor sport:** Based upon the current adopted Developer Contributions Technical Guidance and SPGBH9, £63,604 towards the following:

- Parks – Hove Park and/or Hove Recreation Ground, Three Cornered Copse
- Play – Hove Park and/or Dyke Park, Hove Lagoon
- Sports – Hove Park and/or Nevill, Withdean Leisure Complex, King Alfred, Hove Recreation Ground
- Amenity/Natural Semi Natural – Three Cornered Copse And/or Hove Park, Hove Recreation Ground
- Allotments – Weald and/or North Nevill

10.4 **Local Employment scheme:** Based upon the current adopted Developer Contributions Technical Guidance, £7,500 plus a commitment to 20% local employment for the demolition and construction phases.

10.5 **Artistic component / public realm:** Based upon the current adopted Developer Contributions Technical Guidance and established formulae, that the scheme incorporates an artistic component or public realm improvements to the value of £18,600.

ITEM C

76-79 & 80 Buckingham Road, Brighton

BH2016/01766

Full Planning

DATE OF COMMITTEE: 21st June 2017

BH2016/01766 76-79 & 80 Buckingham Rd, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/01766	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	76-79 And 80 Buckingham Road Brighton		
<u>Proposal:</u>	Conversion of nos 76-79 Buckingham Road to provide four residential dwellings (C3). Demolition of no 80 Buckingham Road and the erection of a five storey building to provide 20 residential units (C3) and a community use unit (D1). Associated car parking, cycle parking, landscaping and servicing provision.		
<u>Officer:</u>	Gareth Giles, tel: 293334	<u>Valid Date:</u>	07.06.2016
<u>Con Area:</u>	WEST HILL	<u>Expiry Date:</u>	06.09.2016
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	RPS CgMs 140 London Wall London EC2Y 5DN		
<u>Applicant:</u>	Buckingham Developments (Brighton) Ltd C/o RPS CgMs 140 London Wall London EC2Y 5DN		

1. PURPOSE OF REPORT

- 1.1 To consider a material change to the planning application previously considered by Planning Committee in October 2016 following the submission of financial viability evidence by the applicant: that the affordable housing provision is proposed to be secured either on site or by a financial contribution in lieu of on-site provision.

2. RECOMMENDATION

- 2.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in Appendix 1 as modified by this report and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement on the following terms and the following Conditions and Informatives:

Section 106 Agreement Heads of Terms

- Affordable Housing either on-site or as a commuted sum of £860,000;
- Education contribution of £62,387.80;
- Open Space contribution of £67,928;
- The production of an Employment and Training Strategy;
- Local Employment Scheme contribution of £7,400;
- Sustainable Transport contribution of £14,000.

Conditions:

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

Plan Type	Reference	Version	Date Received
Block Plan Proposed	BD-MAKE-XX-00-P-A-2000	1	28 September 2016
Block Plan Proposed	BD-MAKE-XX-00-P-A-1000/1	1	13 June 2016
Floor Plans Proposed	BD-MAKE-XX-01-P--A-2011	3	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-02-P--A-2012	3	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-03-P--A-2013	4	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-04-P--A-2010	3	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-LG-P--A-2008	4	17 May 2016
Floor Plans Proposed	BD-MAKE-XX-LG-P--A-2009	3	17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2103	3	17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2105	0	17 May 2016
Sections Proposed	BD-MAKE-XX-ZZ-S--A-2201	3	17 May 2016
Other	BD-MAKE-XX-ZZ-SRS--A-0100	2	17 May 2016
Arboricultural Report	395-01		17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2100	4	16 August 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2101	4	19 August 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2102	4	19 August 2016
Elevations Proposed	BD-MAKE-XX-04-P-A-2014	5	28 September 2016
Roof Plan Proposed	BD-MAKE-XX-RP-P-A-2016	4	28 September 2016
Elevations Proposed	BD-MAKE-XX-XX-E-A-2104	4	28 September 2016
Sections Proposed	BD-MAKE-XX-ZZ-S-A-2200	4	28 September 2016

- 2** The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 3** No cables, wires, aerials, pipework (except rainwater downpipes shown on the approved plans) meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.

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

- 4 The community use and communal garden hereby permitted shall not be operated or open to the public outside the following hours; 0800-2200 daily. No variation to the above hours shall be permitted without the prior written approval of the Local Planning Authority.

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

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

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

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

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

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

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

- 8 No development above ground floor slab level shall take place until a scheme setting out highway works to implement the:

- Removal of the existing recessed ambulance bay that will become redundant due to this development on Buckingham Street and reinstatement of the footway and kerb edge;
- Relocation of the communal bins adjacent to the Buckingham Street ambulance bay;
- Removal of the existing ambulance and doctors' bays on Buckingham Road that will become redundant due to this development; and
- Replacement of any existing pavers/ tactile paving/ dropped kerbs that have been damaged around the site due to this development has been submitted to and approved in writing by the local planning authority. No part of the building hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.

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

9 No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority, which will provide the following information:

- a) The phases of the Proposed Development including the forecasted completion date(s);
- b) 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;
- c) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how complaints will be dealt with reviewed and recorded (including details of any Considerate Contractor or similar scheme);
- d) 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;
- e) A plan showing construction traffic routes.
- f) A prior working agreement through section 61 of the Control of Pollution Act 1974 will be required. The City Council will set hours, and conditions necessary for the build to protect local residents. This has regard to best practicable means as defined in section 72 of the Control of Pollution Act 1974 and the British Standard 5228:2009, Parts 1 and 2.

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

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

- 10** Ground investigation to identify and remedy potential land contamination is required, as recommended in the submitted Land Quality Study (April 2016). This should be carried out after demolition and before the construction phase and if any contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a method statement to identify, risk assess and address the unidentified contaminants.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
- 11** No development above ground floor slab level shall take place until full details of all new windows and their reveals, cills and central meeting rails including 1:20 scale elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.
- 12** No development above ground floor slab level shall take place until full details of the roof eaves and integrated balconies to the new building at number 80; and the railings to the front of numbers 76-79; including detailed, scaled elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.
- 13** No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- a) Samples of all brick, stone, tiling and painted render (being a good quality traditional wet-render with smooth finish paint)
 - b) Samples of all cladding to be used, including details of their treatment to protect against weathering
 - c) Samples of all hard surfacing materials
 - d) Samples of the proposed window, door and balcony treatments
 - e) Samples of all other materials to be used externally

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

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

- 14** No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the proposed sound insulation scheme to be implemented between the development and the adjoining premises and/or between the residential accommodation and any residential or non-residential uses have been submitted to and approved by the Local Planning Authority. The Building Regulations Part E assessment is to take account of the electrical substation and the internal noise environment generally. The Party Walls/Floors between the ground floor units and the first floor residential units should be designed to achieve a sound insulation value of 5dB better than Approved Document E performance standard, for airborne and structural sound insulation for floors of purpose built dwelling-houses and flats. Details should include airborne and/or impact sound insulation. The developer shall certify to the local planning authority that the noise mitigation measures agreed have been installed. The approved scheme is to be completed prior to occupation of the development and shall be permanently maintained thereafter.
Reason: to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.
- 15** The arrangements for refuse and recycling facilities shall be implemented in accordance with the details hereby approved prior to first occupation of the development and shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 16** Prior to first occupation of the development hereby permitted a scheme to enhance the nature conservation interest of the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first occupation of the development hereby approved.
Reason: To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 17** None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
Reason: To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the City Plan Part One.
- 18** Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities and their access for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

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

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

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

- 20** At least two of the new build units hereby approved shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other new build dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

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

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

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

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

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

- 23** Prior to first occupation of the development hereby permitted, details of the car parking provision, including disabled spaces, for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use for the parking of private motor vehicles and

motorcycles belonging to the occupants of and visitors to the development hereby approved prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure the development provides for the needs of disabled occupants and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan, CP9 of City Plan Part One and SPD4 guidance.

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

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

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

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

- 26** Prior to first occupation of the development hereby permitted, the maximum permissible noise level from the air source heat pumps must be adhered to and the following mitigation measures are to be employed as per Anderson Acoustic report revised August 2016 (2852_002R_3-0_RNM):

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

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

Informatives:

- 1.** In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
- 2** The applicant is advised that they must enter into a Section 278 Agreement with the Highway Authority prior to any works commencing on the adopted highway,
- 3** The Highways Authority advises that the following details relating to cycle storage should be implemented to comply with best practice:

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

4 The commemorative E. Marshall plaque on the ramp adjoining 79 Buckingham Road shall be relocated to 80 Buckingham following completion of the new build construction at No. 80. The future location of the plaque should be agreed with the Council.

3. BACKGROUND INFORMATION

3.1 Planning Committee Members on 12th October 2016 were **Minded to Grant** planning permission for this proposal subject to a section 106 agreement and a number of conditions. The full committee report is attached at Appendix 1 for reference.

3.2 At the meeting, several conditions in the report were verbally updated by the case officer which are consolidated in this report.

3.3 The affordable housing provision considered at the meeting was of 40% (9 units) of the net 22 new units being affordable on-site. This complied with City Plan Part One Policy CP20 which requires the provision of 40% on-site affordable housing for sites of 15 or more net dwellings.

3.4 The Council's Affordable Housing Brief (2014) sets out a citywide objective to achieve a tenure mix of affordable housing of 55% social or affordable rented and 45% intermediate e.g. shared ownership. For the application scheme this would equate to 5 rented units and 4 intermediate units.

3.5 The policy wording of CP20 advises that the target of 40% may be applied flexibly where it is considered to be justified in light of various criteria including, among others: the costs relating to the development; in particular the financial viability of developing the site (using an approved viability model); the extent to which affordable housing would prejudice other planning objectives; and, the need to achieve a successful housing development.

4. REASONS FOR MATERIAL CHANGE TO PREVIOUS SCHEME

4.1 On 23rd November 2016 the applicant submitted financial viability evidence to the local planning authority advising that the only viable scheme for on-site affordable housing provision would be 9 Shared Ownership units (40% on-site total affordable units).

4.2 Officers commissioned the District Valuer Service (DVS) to review the applicant's viability evidence. The DVS report in April 2017 confirmed the initial findings of the applicant's evidence and concluded that two tenure mix options were possible:

- 9 Shared Ownership units (40% on-site total) as 4x2 bed and 2x1 bed flats

- 6 Affordable Rent units (27% on-site total) as 5x2 bed and 4x1 bed flats
- 4.3 Officers requested that the applicant liaise with the Council's panel of Registered Providers for affordable housing to confirm their willingness and ability to buy the proposed units.
- 4.4 The applicant engaged with the following partner Registered Providers:
- Affinity Sutton (now Latimer)
 - Guinness Partnership
 - Hyde Housing
 - Moat Homes
 - Southern Housing Group
- 4.5 Four of the Registered Providers responded saying the number of units was too small to currently consider and the fifth (Guinness) responded saying they would only consider Shared Ownership units if they could acquire the freehold.
- 4.6 The Council's Housing Strategy Team has independently confirmed the position of each Registered Provider.
- 4.7 It is therefore apparent that on-site affordable housing provision is not currently feasible given the lack of willingness from Registered Providers of affordable housing to take on the units. A fall-back position of financial contributions towards affordable housing in lieu of on-site provision (also known as a Commuted Sum) is therefore relevant although an option can be included in the section 106 agreement to provide on-site affordable housing should the position of the Registered Providers change in the future.

5. COMMUTED SUM

- 5.1 The Developer Contributions Technical Guidance (March 2017) as informed by a study conducted by the DVS recommends a Commuted Sum of £1,974,390 based on a generic development profile with the proposed number of dwellings in Value Area Zone 1.
- 5.2 Acknowledging the apparent viability constraints with this development, site-specific advice was sought from the DVS to confirm the potential level of financial contribution in lieu that could be secured from the proposed development. The DVS concluded that the scheme "*could viably provide a Payment in Lieu of Affordable Housing of £775,000, assessed with this payment being made in the first month of the project. If this payment was delayed until all the Market units were sold this could be increased to £860,000 and still be viable*".

6. PROPOSAL

- 6.1 The proposed development is therefore amended to take a flexible approach to securing affordable housing through either on-site provision or through a

financial contribution in lieu, in the event that the position of the Registered Providers change in the future.

- 6.2 The section 106 agreement will provide for two options to secure affordable housing: either on-site in a tenure mix in line with the viability evidence (9 Shared Ownership units or 6 Affordable Rented units) or through a financial contribution of £860,000 towards affordable housing in lieu.
- 6.3 All other material considerations remain the same as the previous scheme which were set out in the full committee report in October 2016 which is attached at Appendix 1 for reference.

7. COMMENT

- 7.1 Policy CP20 allows the affordable housing target of 40% to be applied flexibly particularly where viability constraints threaten the delivery of the development and the need to achieve a successful housing development.
- 7.2 The District Valuer Service is of the view that the site has some limited viability constraints to a level that would justify a different tenure mix to the Affordable Housing Brief with options for either 9 Shared Ownership units or 6 Affordable Rent units which the applicant was willing to provide.
- 7.3 However, the inability to secure a Registered Provider partner has led to the position where a Commuted Sum has to be considered as an option. It is considered that without the ability to provide a Commuted Sum in lieu of affordable housing on-site, the development may not be deliverable in accordance with the legal agreement if no Registered Provider is willing to buy on-site affordable housing units.
- 7.4 The Council's Housing Strategy Team have confirmed that recent funding and political uncertainties have created a more cautious climate in the industry and the Registered Providers are currently reluctant to purchase smaller numbers of units due to the risks involved. This includes the proposed development at Buckingham Road where 9 affordable units are proposed and the Council's panel of Registered Provider partners have all declined to take on the units.
- 7.5 Financial contributions in lieu are only considered where options for on-site provision have been exhausted. This is on the basis that the sums provided will be used to meet the affordable housing shortfall through other means. The Council does not have an alternative purchasing vehicle at present although various options are being explored. Further options for meeting the aims of the affordable housing policy will now be explored by the Housing Strategy Team in light of the current reluctance of Registered Providers to take on small numbers of units such as this.
- 7.6 Therefore, the Local Planning Authority, in liaison with the Housing Strategy Team, is satisfied that the provision of a financial contribution in lieu of affordable housing is an acceptable alternative to the scheme previously considered by Planning Committee and can be considered to comply with the development plan, in particular the criteria of Policy CP20 in deviating from the

40% on-site affordable housing target. The inclusion of two options to secure affordable housing in the section 106 agreement is therefore considered to be an appropriately flexible approach and allows for on-site provision to be secured should the position of the Registered Providers change in the future.

APPENDIX 1 – PREVIOUS PLANNING COMMITTEE REPORT (12 October 2016)

<u>No:</u>	BH2016/01766	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	80 Buckingham Road, Brighton, BN1 3RJ (76-79 and 80 Buckingham Road Brighton)		
<u>Proposal:</u>	Conversion of nos 76-79 Buckingham Road to provide four residential dwellings (C3). Demolition of no 80 Buckingham Road and the erection of a five storey building to provide 20 residential units (C3) and a community use unit (D1). Associated car parking, cycle parking, landscaping and servicing provision.		
<u>Officer:</u>	Gareth Giles, tel: 293334	<u>Valid Date:</u>	07.06.2016
<u>Con Area:</u>	WEST HILL	<u>Expiry Date:</u>	06.09.2016
<u>Listed Building Grade:</u>			
<u>Agent:</u>	RPS CgMs 140 London Wall London EC2Y 5DN		
<u>Applicant:</u>	Buckingham Developments (Brighton) Ltd C/o RPS CgMs 140 London Wall London EC2Y 5DN		

1 RECOMMENDATION

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

Conditions:

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

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

Floor Plans Proposed	BD-MAKE-XX-LG-P--A-2009	3	17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2103	3	17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2105	0	17 May 2016
Sections Proposed	BD-MAKE-XX-ZZ-S--A-2201	3	17 May 2016
Other	BD-MAKE-XX-ZZ-SRS--A-0100	2	17 May 2016
Arboricultural Report	395-01		17 May 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2100	4	16 August 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2101	4	19 August 2016
Elevations Proposed	BD-MAKE-XX-XX-E--A-2102	4	19 August 2016
Elevations Proposed	BD-MAKE-XX-04-P-A-2014	5	28 September 2016
Roof Plan Proposed	BD-MAKE-XX-RP-P-A-2016	4	28 September 2016
Elevations Proposed	BD-MAKE-XX-XX-E-A-2104	4	28 September 2016
Sections Proposed	BD-MAKE-XX-ZZ-S-A-2200	4	28 September 2016
Block Plan Proposed	BD-MAKE-XX-00-P-A-2000	1	28 September 2016

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

- 3 No cables, wires, aerials, pipework (except rainwater downpipes shown on the approved plans) meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.

- 4 The vehicle parking area shown on the approved plans shall be carried out in accordance with the approved layout and shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.
Reason: To ensure that adequate parking provision is retained and to comply with policy CP9 of the City Plan Part One.

- 5 The community use and communal garden hereby permitted shall not be operated or open to the public outside the following hours; 10am-10pm. No

variation to the above hours shall be permitted without the prior written approval of the Local Planning Authority.

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

- 6 No equipment or machinery (excluding the MVHR ventilation units) shall be operated at the site outside the following hours 7am-11pm. No variation to the above hours shall be permitted without the prior written approval of the Local Planning Authority. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997. In addition, there should be no significant low frequency tones present.
- Reason:** to protect the amenity of nearby and adjacent occupiers in accordance with Policy QD27 of the Brighton and Hove Local Plan.
- 7 No development shall commence until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.
- Reason:** As this matter is fundamental to the acceptable delivery of the permission to prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.
- 8 The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.
- Reason:** This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
- 9 No development shall take place until a scheme setting out highway works to implement the:
- Removal of the existing recessed ambulance bay that will become redundant due to this development on Buckingham Street and reinstatement of the footway and kerb edge;
 - Relocation of the communal bins adjacent to the Buckingham Street ambulance bay;
 - Removal of the existing ambulance and doctors' bays on Buckingham Road that will become redundant due to this development; and

- Replacement of any existing pavers/ tactile paving/ dropped kerbs that have been damaged around the site due to this development has been submitted to and approved in writing by the local planning authority. No part of the building hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.

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

- 10 No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority, which will provide the following information:
- (i) The phases of the Proposed Development including the forecasted completion date(s);
 - (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to commence development until such consent has been obtained;
 - (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how complaints will be dealt with reviewed and recorded (including details of any Considerate Contractor or similar scheme);
 - (iv) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site;
 - (v) A plan showing construction traffic routes.
 - (vi) A prior working agreement through section 61 of the Control of Pollution Act 1974 will be required. The City Council will set hours, and conditions necessary for the build to protect local residents. This has regard to best practicable means as defined in section 72 of the Control of Pollution Act 1974 and the British Standard 5228:2009, Parts 1 and 2.

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

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

- 11 Ground investigation to identify and remedy potential land contamination is required, as recommended in the submitted Land Quality Study (April 2016). This should be carried out after demolition and before the construction phase and if any contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a method statement to identify, risk assess and address the unidentified contaminants.

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

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

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

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

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

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

- a) Samples of all brick, stone, tiling and painted render (being a good quality traditional wet-render with smooth finish paint)
- b) Samples of all cladding to be used, including details of their treatment to protect against weathering
- c) Samples of all hard surfacing materials
- d) Samples of the proposed window, door and balcony treatments
- e) Samples of all other materials to be used externally

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

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

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

Reason: As this matter is fundamental to ensuring the development of the site is controlled during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.

- 16 Prior to the commencement of works on the development hereby permitted, details of the proposed sound insulation scheme to be implemented between the development and the adjoining premises and/or between the residential accommodation and any residential or non-residential uses shall be submitted and approved by the Local Planning Authority. The Building Regulations Part E assessment is to take account of the electrical substation and the internal noise environment generally. The Party Walls/Floors between the ground floor units and the first floor residential units should be designed to achieve a sound insulation value of 5dB better than Approved Document E performance standard, for airborne and structural sound insulation for floors of purpose built dwelling-houses and flats. Details should include airborne and/or impact sound insulation. The developer shall certify to the local planning authority that the noise mitigation measures agreed have been installed. The approved scheme is to be completed prior to occupation of the development and shall be permanently maintained thereafter.

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

- 17 Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

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

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

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

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

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

- 20 Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities and their access for the occupants of, and visitors to, the

development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

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

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

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

- 22 At least two of the new build units hereby approved shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other new build dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

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

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

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

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

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

25 Prior to first occupation of the development hereby permitted, details of disabled car parking provision for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPG4 guidance.

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

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

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

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

28 Prior to first occupation of the development hereby permitted, the maximum permissible noise level from the air source heat pumps must be adhered to and the following mitigation measures are to be employed as per Anderson Acoustic report revised August 2016 (2852_002R_3-0_RNM):

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

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

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that they must enter into a Section 278 Agreement with the Highway Authority prior to any works commencing on the adopted highway,

- 3 The Highways Authority advises that the following details relating to cycle storage should be implemented to comply with best practice:
- Individual cycle stores for numbers 76-79 Buckingham Road;
 - Relocation of the Sheffield type stands to near the Community Space;
 - A security system e.g. key or fob for the basement bike store for residents of the flats and visitors to the community space

2 SITE LOCATION & APPLICATION DESCRIPTION

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

two residential flats are found on site as existing, the net number of units proposed is 22. Associated car parking, cycle parking, landscaping and servicing provision is also provided. Minor amendments to the design were received during the course of the application on the advice of the Heritage Officer comprising of: changing many of the proposed windows from casement hung to sliding sash hung; amendments to the proposed roof-glazing and removal of the roof level of the proposed connecting structure between numbers 79 and 80 Buckingham Road.

3 RELEVANT HISTORY

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

4 REPRESENTATIONS

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

5 CONSULTATIONS

5.1 **Police:** No objection

The principles of Secured by Design should be adhered to.

5.2 **Sustainability Officer:** No objection

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

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

5.4 The New build element of the development (80 Buckingham Road) will target: the minimum water and energy efficiency requirements set out in City Plan Policy CP8. It is estimated in the submitted Energy Strategy that photovoltaic array generating approximately 11,915 kWh electricity per annum will be required to meet the energy efficiency standard. This will be refined during design development, but the anticipated solution includes: use of renewable technologies: air source heat pumps, and a 14kWp solar array (107m²) in the form of integrated photovoltaic tiles that mimic slate to the rear of the townhouses. Heating will be provided through a communal system fed by air source heat pumps and gas boilers. Fabric/thermal performance will exceed Building Regulations minimum standards. Mechanical Ventilation with Heat Recovery (MVHR) will be incorporated into the scheme. The non-residential element is targeting an EPC rating of 'A' which is welcomed. This area covers 63.5m² and therefore falls below the trigger point for use of BREEAM standards under policy CP8. An Energy Performance Certificate 'A' rating is very much welcomed for this element of the scheme.

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

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

5.7 **County Archaeologist:** No objection

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

- 5.8 It is not considered that the proposals are likely to have a significant archaeological impact and have no further comments to make in this case.
- 5.9 **Heritage Officer:** No objection / Comment
- 5.10 76-79 Buckingham Road
The proposed improvements to the front elevation of 76-79 Buckingham Road are welcomed as enhancements to the conservation area. The detailing should exactly replicate surviving historic detailing; conditions should be applied to ensure this and to confirm the exact details/location of reinstated elements.
- 5.11 The inserted window at second floor level at 79 Buckingham Road should be removed as part of the proposal, as indicated within the Design & Access Statement but still shown on the proposed elevation. The railings to the LHS of 79 Buckingham Road should also match the remainder of the existing and proposed railings. This should exactly match those surviving to 76 and 77. It should be ensured that red pavements are retained and/or reinstated to the front basements of all properties. Slate would be an inappropriate material for use to the front of the properties. The cast iron rainwater goods would appropriately be painted to match the elevation, rather than painted black. This should be amended.
- 5.12 To the rear, it is proposed to alter the existing fenestration. The existing fenestration is much altered and lacks uniformity. Introduction of a greater sense of uniformity to the elevations would be appropriate. The level of uniformity introduced by the proposals is however limited given the number of styles and sizes of windows proposed. It would be more appropriate to introduce windows of greater regularity and traditional proportions. It is however noted that this elevation will not be visible in the streetscene and thus the impact of these alterations to the conservation area are limited.
- 5.13 It is understood that it is proposed to also reinstate the interiors of these buildings, including cornices etc., based on surviving evidence. It should be noted that these buildings are not listed, and therefore alterations to their interiors are not therefore controlled as part of the planning system. Future alterations to the interior could be made without planning permission. Whilst reinstatement of the interiors is appropriate in heritage terms, it is unlikely to receive weight as a heritage benefit in planning terms. No evidence of the historic layout nor details have been provided, and it is therefore also unclear whether a previous plan form or details are being exactly matched; parts of the plan form do not appear to be traditional.
- 5.14 80 Buckingham Road
The existing 80 Buckingham Road is of no architectural or historic interest and there is no objection to its demolition, subject to a suitably-designed replacement. The principle of a building of modern design in this location is accepted, provided it remains sympathetic to the character of the conservation area. The scale and massing of the proposal has been reduced since pre-application. It nevertheless constitutes a large building within the conservation area, set in a prominent location. There is a disparity in scale of building to either side of Upper Gloucester Road which has the potential for the proposed

development to appear overbearing. The scale of development also means that the proposed will be particularly prominent in views up Upper Gloucester Road. Both of these issues could be reduced through reducing the scale of the development, or by setting back the building line to Upper Gloucester Road. Contrary to that stated in the Heritage Statement (p26), a set back building line would reinstate the historic arrangement, as the previous school building was set back from the pavement edge. It is however acknowledged that the existing building is of a similar scale and massing to that proposed.

- 5.15 The building (particularly height, bulk, eaves and roof form) have the potential to be overbearing to the historic terraces on Buckingham Road and Buckingham Street. To mitigate for this, a recessed portion has been introduced. This allows a degree of separation to remain, reducing the dominance of the new build in relation to its neighbours. The amount by which this portion is recessed is minimal however, and its effectiveness is further undermined due to its height (eaves matching that of the main building) and the inclusion of a roof. It also extends much further to the rear than the terraced buildings on Buckingham Road (although it is acknowledged this is not visible from the streetscene). The eaves height of the recessed elements should be set below that of the main building. The proposed roof should be omitted; a flat roof to this section would be appropriate. Alteration to this roof will require amendment to the neighbouring portion of the main roof.
- 5.16 The building has been designed to reflect and respond to the rhythm and architectural design of the surrounding buildings and streets. The use of render with rustication and string courses is appropriate. A sample of the render and all other materials would be required by condition. The sense of solidity to the residential entrance and the less solid shopfront-style entrance with corner doorway is appropriate for the community use; both reflecting entrances on their respective streets. Large scale details and sections will be required for all architectural elements by condition. The roof form is a particularly striking element of the design. Its success will be dependent on very careful detailing and choice of materials. The windows at this level have been amended to a more traditional shape, but do not align with windows below nor to the design of the elevation as a whole. Given the modern design of the roof, a more overtly modern design should be applied to the windows. The integrated balconies are bounded by a section of solid roof as well as railings in order to minimize their impact on the streetscene. Further large scale details should be provided on this element to be able to consider the impact of these features. It is considered that a greater degree of solidity will be required (at places it seems that only 500mm of solid roof is proposed).
- 5.17 Further detail is required of the eaves detail, which appears somewhat bulky. The proposed windows incorporating small top hung casements are out of keeping with the area and with the proposed architectural style. This element needs to be reconsidered. Substantial reveals will be required to the windows in order to achieve an appropriate level of relief to the elevation, and to be in keeping with the character of the conservation area.

- 5.18 Railings and rendered piers reflecting (but not matching) those to 76-79 Buckingham Road are proposed. This provides a boundary between public and private space which is characteristic of the conservation area, except that there will be no basement lightwell behind the railings. It would be appropriate for some soft landscaping to be introduced behind the railings so that this difference is not so clearly evident in the streetscene. There is the potential for this area to be used for ad hoc storage, which should be avoided. The proposed material to the front forecourted area should be confirmed. Inclusion of window openings at ground floor level on the Buckingham Street elevation is appropriate for the design and sense of proportion of the elevation. However the bars across the windows do not contribute to the character of the street and require further consideration.
- 5.19 **Conservation Advisory Group:** No objection
The Group recommend APPROVAL of the application and has confidence that the Conservation Officers will check the detail.
- 5.20 **City Clean:** No objection
Cityclean have no objections to the proposed developments so long as the standard bin collection guidelines are followed.
- 5.21 **Planning Policy:** Comment
Loss of Community Facilities
Policy HO20 of Brighton & Hove Local Plan seeks to retain community facilities. However it recognises that a site in community use may no longer be needed and specifies four exceptions that may apply which are as follows:
- a) The community use is incorporated, or replaced within a new development;
or
 - b) The community use is relocated to a location which improves its accessibility to its users; or
 - c) Existing nearby facilities are to be improved to accommodate the loss; or
 - d) It can be demonstrated that the site is not needed, not only for its existing use but also for other types of community use.
- 5.22 Where an exception applies a priority is attached to residential and mixed use schemes which may provide 'live work' and/or starter business units to meet identified local needs.
- 5.23 Apart from the 2 flats the application site's lawful use is considered to be community use. Before falling vacant numbers 76-79 Buckingham Road accommodated the Southdown Mental Health Recovery Centre and no. 80 Buckingham Road accommodated adult / day centre services.
- 5.24 76-79 Buckingham Road:
The Southdown Mental Health Recovery Centre, which used to occupy 76-79 Buckingham Road, was relocated to a new facility in Frederick Place in November 2014. Its relocation provided the use within the same catchment area and with better access to Brighton Station and bus routes.

5.25 The relocated facility provides a similar service to that provided at the application site, even though the floorspace occupied is less, and continues to run in conjunction with Preston Park Recovery Centre. The planning statement indicates the same level of support and staffing has been maintained and the new facility has delivered a number of benefits. It would appear the aim of the policy to ensure the community use remains available to its users on similar terms equal to, if not better than, those previously provided has been met in respect of 76-79 Buckingham Road. Especially when considered against the benefits to the conservation area offered from the proposed conversion of the premises back to residential and the removal of unsympathetic features. Based on the information submitted it is therefore considered the proposal in respect of 76-79 meets policy HO20.

5.26 80 Buckingham Road:

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

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

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

5.29 Affordable housing

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

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

5.30 Open Space

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

5.31 Other matters:

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

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

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

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

5.35 Waste Management

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

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

- 5.36 Policy WMP3e of the WMP requires proposals for new development to identify the location and provision of facilities intended to allow for the efficient management of waste, e.g. location of bin stores and recycling facilities.
- 5.37 **Environmental Health:** No objection / Comment
The initial Environmental Health consultation response raised several queries including the submitted Acoustic Report (dated May 2016) which the applicant sought to address during the application process. The applicant submitted further and more detailed evidence and reports during the lifetime of the application, including an amended Acoustic Report (dated August 2016), and the Environmental Health Officer provided a final response as follows:
- 5.38 In relation to the relative internal arrangement of the flats, 'like for like' rooms are best positioned adjacent to and above one another so as reduce the potential for later noise problems.
- 5.39 The Anderson Acoustic report revised August 2016 (2852_002R_3-0_RNM) was considered alongside the acoustician's comments to specific queries and approval is now recommended subject to conditions.
- 5.40 The proposal is in a densely populated area and there is a need for effective implementation of full construction environment management plan.
- 5.41 **County Ecologist:** No objection
The majority of the site comprises hard standing and buildings and is of minimal ecological value. It is therefore considered unlikely that there will be any significant impacts on biodiversity.
- 5.42 In summary, the proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for biodiversity enhancements that will help the Council address its duties and responsibilities under the NERC Act and NPPF.
- 5.43 **Education Officer:** No objection
We seek contributions where there is a demonstrable need for additional pupils. In this part of the city there is a demonstrable need in all phases of education at St Mary Magdalene RC Primary, St Pauls C E Primary, Middle Street Primary St Bartholomew's and Carlton Hill Primary. These schools offer a total of 1050 permanent places and there are currently 1052 pupils on roll. In terms of secondary schools this development would fall into the catchment area of Hove Park and Blatchington Mill and the funding would be used at either or both of these schools. A contribution of £62,387.80 is therefore sought in line with the Council's contributions policy.
- 5.44 **Sustainable Transport:** No objection
Recommended approval as the Highway Authority has no objections to this application subject to the inclusion of the necessary conditions and Section 106 requirements.
- 5.45 Pedestrian & Mobility Impaired Access

The Highway Authority does not wish to object to the access overall on the site as:

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

5.46 Cycle parking

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

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

5.48 Disabled Parking

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

5.49 Amount

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

5.50 Bus Parking

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

5.51 S278/ Highway Works

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

5.52 Car Parking/ Highway Impact

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

5.53 Based on the 2011 car ownership census data this development is forecast to have on average 10 vehicles associated with the residential element. The applicant is providing 6 or 5 standard spaces (if one is lost to accommodate guidance compliant disabled parking spaces) on site. This amount is below the likely amount and therefore there is likely to be overspill parking on the highway of 4 or 5 vehicles approximately.

5.54 It is however noted that the existing on-street 2 Doctors' bays and 3 Ambulance bays would become redundant due to this development and it is likely that a minimum of 6 regular car parking spaces could be achieved by their removal. This would make up for the short fall. The Highway Authority would also in addition look for other measures to mitigate any overspill parking that may occur by requesting that the applicant provides 2 years membership for each residential unit to the City's Car club (see Travel Plan Measures below). There are existing car club bays on Buckingham Street, Leopold Road and Guildford Street, in close proximity to the site. The provision of 2 years membership for each residential unit should be secured via a S106 agreement. With these measures, and the additional on-street car parking spaces the Highway Authority does not deem the proposed level of car parking on site to be a reason for refusal. It is also noted that the City Council's parking standards SPD14 are a maximum and therefore the amount is within the standards.

5.55 Travel Plan Measures

In order to encourage lower car ownership and to promote sustainable forms of travel to and from the site the Highway Authority would look also for the applicant to provide a Travel Information Pack to first residents of the residential units. This Travel Pack should be secured through a S106 agreement and should include the following:

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

5.56 These measures would help to mitigate the likelihood of a localised parking stress occurring in the streets around the development. It is noted that the applicant is proposing a travel information pack in the transport assessment that would provide information only. The Highway Authority would want to see the above car club membership and bus season tickets included in their proposal.

5.57 Trip Generation/ S106

The proposed development will generate an increase in the level of trips to and from the site. In order to ensure that the development provides for the additional

trips it generates and that there is adequate pedestrian provision for users of all abilities, the Highway Authority seeks a sustainable transport contribution of £14,000 in accordance with the council's standard contributions formula.

5.58 City Regeneration: No objection

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

5.59 An Employment and Training Strategy will be required in addition to developer contributions of £7,400 towards the council's Local Employment Scheme, as referenced in the council's Developer Contributions Technical Guidance. Early contact with the council's Local Employment Scheme Co-ordinator is recommended to progress the Employment and Training Strategy, in order to avoid any delays in the planned commencement of the development.

6 MATERIAL CONSIDERATIONS

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

6.2 The development plan is:

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

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

7 POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP2 Sustainable economic development
- CP3 Employment land
- CP4 Retail provision
- CP5 Culture and tourism
- CP6 Visitor accommodation
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings

CP9 Sustainable transport
CP10 Biodiversity
CP11 Flood risk
CP12 Urban design
CP13 Public streets and spaces
CP14 Housing density
CP15 Heritage
CP16 Open space
CP17 Sports provision
CP18 Healthy city
CP19 Housing mix
CP20 Affordable housing
CP21 Student housing and Housing in Multiple Occupation

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

TR4 Travel plans
TR7 Safe Development
TR14 Cycle access and parking
SU9 Pollution and nuisance control
SU10 Noise Nuisance
QD5 Design - street frontages
QD14 Extensions and alterations
QD15 Landscape design
QD16 Trees and hedgerows
QD18 Species protection
QD27 Protection of amenity
HO5 Provision of private amenity space in residential development
HO13 Accessible housing and lifetime homes
HO20 Retention of community facilities

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

Supplementary Planning Documents:

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

8 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application are the principle of development, including the loss of the community use floorspace; the design of the proposed development and its impact on the character and appearance of the conservation area; the provision of affordable housing to ensure mixed,

sustainable communities; the standard of residential accommodation and private amenity space for future occupants, any impacts on neighbouring amenity and transport impacts.

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

8.3 **Community Use / Former Mental Health Use**

Policy HO20 of Brighton & Hove Local Plan seeks to retain community facilities. However it recognises that a site in community use may no longer be needed and specifies four exceptions that may apply which are as follows:

- a) The community use is incorporated, or replaced within a new development; or
- b) The community use is relocated to a location which improves its accessibility to its users; or
- c) Existing nearby facilities are to be improved to accommodate the loss; or
- d) It can be demonstrated that the site is not needed, not only for its existing use but also for other types of community use.

8.4 The former mental health facility was relocated to a new Mental Health Recovery Centre at 42 Frederick Place in November 2014 which continues to be operated by Southdown Recovery Services. This new facility is within the same catchment area and with better access to Brighton Station and bus routes.

8.5 The applicant submits that the former accommodation at Buckingham Road was underutilised and constrained by the cellular nature of the accommodation split across a number of floors and did not meet the needs of its users. The existing facility has therefore been re-provided in an accessible central location providing new, improved accommodation across a single floor which meets the needs of the services being provided.

8.6 The Planning Policy Team consultation response outlines that the relocated facility at Frederick Place provides a similar service to that provided at the application site, even though the floorspace occupied is less, and continues to run in conjunction with Preston Park Recovery Centre. The aim of the policy to ensure the community use remains available to its users on similar terms equal to, if not better than, those previously provided has been met in respect of 76-79 Buckingham Road.

8.7 It is indicated that no.80 Buckingham Road has been vacant since March 2015 and is no longer needed for its former adult/Day Services use. The applicant's Planning Statement indicates changes in service delivery have resulted in the reduction of central services in favour of providing individual support plans to

service users and providing a more personalised operation using Personal Budgets. Central services will continue to operate out of two other existing bases within the Brighton & Hove area. However there is no information on their location or whether they have been improved in order to accommodate the loss of no.80 Buckingham Road.

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

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

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

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

8.11 Affordable Housing:

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

City Council would therefore require 9 affordable units on-site to ensure the 40% requirement is met.

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

Demolition of the existing building (80 Buckingham Road) in the Conservation Area complies with Local Plan Policy HE8 as is it visually harmful to the special interest of the Conservation Area and its demolition is supported on heritage grounds. Policy HE8 also requires the submission of acceptable detailed plans for a replacement building, which is satisfied by this current application.

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

impact on the pedestrian environment and was supported by the Design Review Panel. The eastern elevation respects the building line of Buckingham Street with the proposed balconies broadly in line with the canted bays of the existing terrace.

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

- 8.31 **Impact on Amenity:**
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.32 The use of the site as residential is unlikely to be more harmful or more intensive than the existing D1 / office use in terms of noise, activity, transportation movements or other disturbance. Furthermore, the substantial and imposing presence of the current building at number 80 Buckingham Road sets a significant precedent in terms of visual obtrusion from neighbouring properties.
- 8.33 Regarding impacts from overlooking or the loss or perceived loss of privacy, the introduction of balconies and roof terraces across all storeys could provide limited views between front-to-front aspects of the new building and properties in Buckingham Road and Buckingham Street which is acceptable across the width of a road given this is a normal relationship in a built-up area. There will be some views of the rear elevations of Buckingham Street from the rear windows of 76-79 Buckingham Road, but many of these windows are already existing. The 'rear' north elevation of the new building at number 80 contains only high-level windows.
- 8.34 The impacts of the new, taller building at Number 80 would be most significantly felt by the properties opposite on the east side of Buckingham Street and the west side of Buckingham Road. The heights of the existing and proposed buildings are as follows, although approximated to account for the sloping land levels and uneven façade of the existing building:
- 8.35 The existing building is approximately 12m tall to the eaves and 15.6m tall to the roof ridge as viewed from Buckingham Road; approximately 15.4m tall to the eaves and 18.2m tall to the roof ridge as viewed from Buckingham Street.
- 8.36 The proposed development is 13.2m tall to the eaves and 17.8m tall to the roof ridge as viewed from Buckingham Road; 14m tall to the eaves and 18m tall to the (nearest) roof ridge as viewed from Buckingham Street.
- 8.37 It should be noted that the roof of the proposed development slopes away from the eaves and so will not be as visually overbearing as the existing roof of number 80. It is unlikely these relatively small increases in height will be harmful enough to neighbouring amenity, in terms of loss of outlook or overbearing appearance, to warrant the refusal of this application.
- 8.38 The application documents include a Daylight and Sunlight Report (May 2016) which concludes:
- "...the majority of all buildings surrounding the development site will not experience any significant changes in daylight, and are fully BRE compliant. Whilst there are four buildings that experience changes in light that exceed*

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

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

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

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

8.45 Landscaping:

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

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

8.47 **Other Considerations:**

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

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

9 EQUALITIES

9.1 Two units have been provided as wheelchair accessible homes.

ITEM D

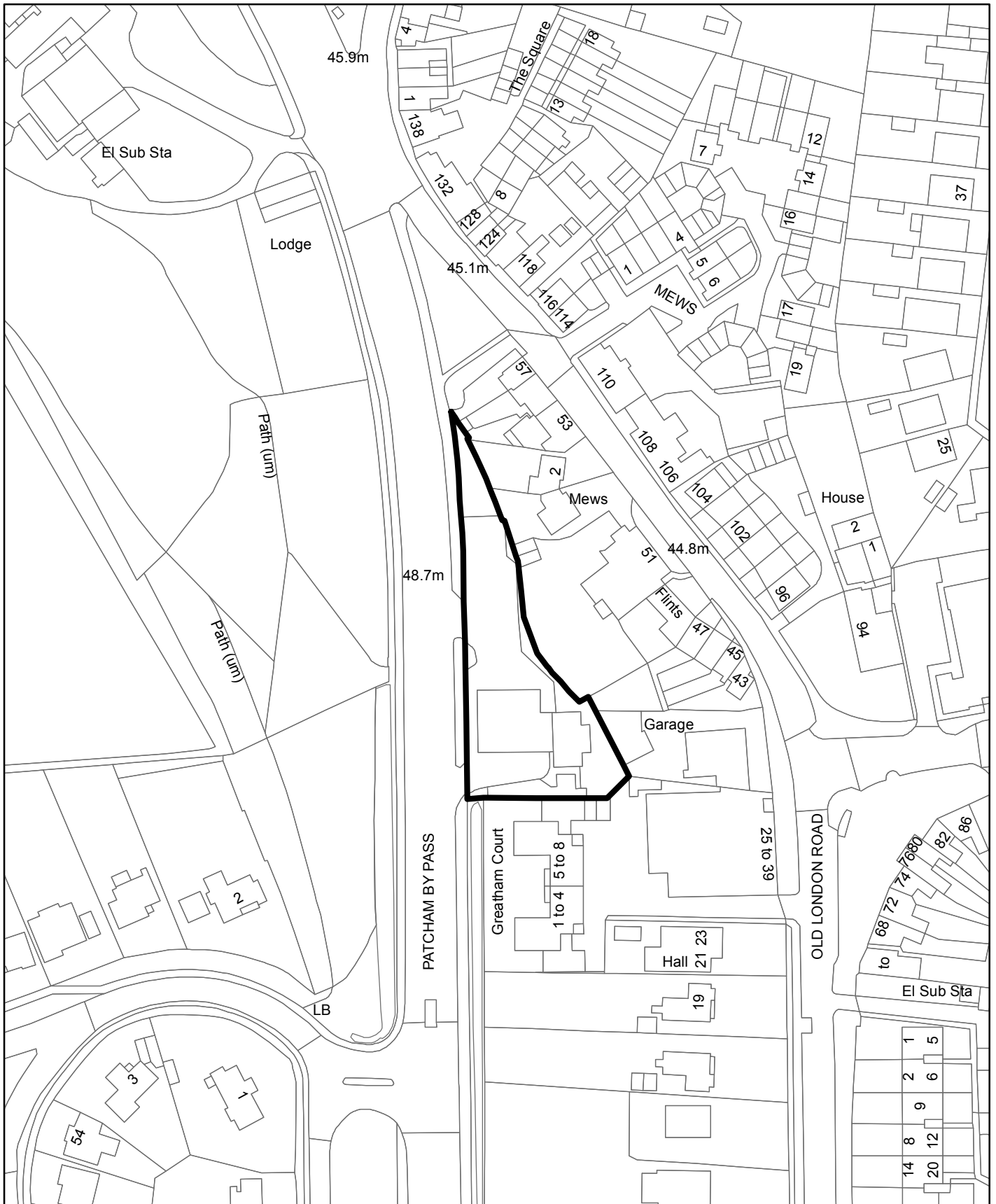
**Patcham Service Station, Patcham By Pass
London Road, Patcham, Brighton**

BH2016/02797

Full Planning

DATE OF COMMITTEE: 21st June 2017

BH2016/02797 Patcham Service Station London Rd Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2016/02797	<u>Ward:</u>	Patcham Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Patcham Service Station Patcham By Pass London Road Patcham Brighton BN1 8YB		
<u>Proposal:</u>	Installation of two car wash bays.		
<u>Officer:</u>	Luke Austin, tel: 294495	<u>Valid Date:</u>	09.09.2016
<u>Con Area:</u>	Adjacent Patcham	<u>Expiry Date:</u>	04.11.2016
<u>Listed Building Grade:</u>	Adjacent Grade II* & Grade II	<u>EOT:</u>	
<u>Agent:</u>	RB Retail _ Licensing Services Ltd	23 Magister Drive	Lee-on-the-Solent PO13 8GE
<u>Applicant:</u>	Highway Stops Retail Ltd	Unit 11	Metro Trading Centre Second Way Wembley HA9 0YJ

1. RECOMMENDATION

- 1.1 **GRANT** planning permission, subject to the following conditions and informatives:

Conditions:

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

Plan Type	Reference	Version	Date Received
Location Plan, Block Plan, Proposed Plans and Elevations	2190/1	B	09 th September 2016
Acoustic Report	Noise Impact Assessment		24 th March 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 jet washing services and vacuuming services shall only operate between the hours of 08:00 and 20:00.
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies SU10 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. The applicant is advised that an agreement with Southern Water, prior to commencement of the development, the measures to be undertaken to divert/protect the public water supply main. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to the northern section of parking area at Patcham Service Station. The existing site comprises a single storey retail unit with associated petrol pumps with a canopy over the forecourt. The relevant section of the site comprises an area of hardstanding to the northern end of the site.
- 2.2 The application seeks planning permission for the installation of two car wash bays to the north of the petrol station forecourt.

3. RELEVANT HISTORY

BH2016/05064: Display of non-illuminated signage to ATM cash machine. (Retrospective). Approved 07/12/2016.

BH2016/05063: Installation of ATM cash machine on concrete base with customer protection and anti-ram raid bollards and associated works. (Retrospective). Approved 07/12/2016.

BH2015/02226: Application for variation of condition 7 of BH2014/03788 (Removal of existing underground fuel pipework and dispensers, including vent stack and offset fills. Installation of new underground fuel tanks, pipework, fuel dispensers, vent stack and offset fills and new concrete and hard forecourt paving) to state that within 3 months of completion of works a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. Approved 16/10/2015.

BH2014/04094: Display of externally illuminated freestanding information signs and externally illuminated and non-illuminated projecting signs. Approved 06/03/2015.

BH2014/03788: Removal of existing underground fuel pipework and dispensers, including vent stack and offset fills. Installation of new underground fuel tanks, pipework, fuel dispensers, vent stack and offset fills and new concrete and hard forecourt paving. Approved 21/04/2015.

BH2014/01327: Display of 2no internally illuminated and 3no non-illuminated canopy signs and 1no internally illuminated site identification sign. Approved 03/07/2014.

BH2007/03876: Installation of ATM cash machine and bollards. Approved 10/12/2007.

4. REPRESENTATIONS

4.1 **Six (6)** letters have been received objecting to the proposed development for the following reasons:

- The vibration from building work at the garage could cause serious problems for neighbouring buildings.
- There are car washing facilities just down the road at the roundabout and at Hollingbury ASDA.
- May make the traffic jams and accidents worse in the London Road.
- Lots of noise from the garage and litter is thrown down into our garden.
- Back directly onto residential gardens
- Recent groundwater flooding at neighbouring properties
- Would put undue pressure on drains
- Impact on adjacent listed building and conservation area

5. CONSULTATIONS

5.1 Environmental Health:

Initial Response - Insufficient Information

This particular application seeks the installation of 2 new car wash bays at an existing petrol filling station. The drawings supplied indicate that these are jet wash type bays and I am particularly concerned over noise.

5.2 Jet wash activities generate a number of calls and complaints to the department due to the different and intermittent noise sources associated with them. The generators, the water hitting splash panels and the hiss of operations all contribute to cause noise. The bays are located behind a wall separating residents and I do not have any noise reports or documentation with the application which will identify the likely impact. I am therefore of the opinion that without any detail on which to comment, there is insufficient information.

5.3 Further Response – No Objection

Following the submission of an acoustic report the Environmental Health Team raised no objections to the scheme provided a condition securing operational hours was added to the permission.

5.4 **Sustainable Transport:** No objection

The proposed car wash facilities are unlikely to have a significant impact on the highway being on a site that has adequate capacity and already accommodates vehicles. It is recommended that the LPA notifies Southern Water to this proposal as there may be additional surface water and foul discharge to the sewer network. Southern Water may wish to limit any additional discharge.

5.5 **Southern Water:** No objection

Recommend approval subject to addition of the requested informatives.

6. MATERIAL CONSIDERATIONS

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

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

6.2 The development plan is:

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

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

7. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP2 Sustainable economic development
- CP3 Employment land
- CP4 Retail provision
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design
- CP13 Public streets and spaces
- CP15 Heritage

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

- TR7 Safe Development
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- QD5 Design - street frontages
- QD27 Protection of amenity
- EM4 New business and industrial uses on unidentified sites
- SR8 Individual shops
- HE3 Development affecting the setting of a listed building
- HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- SPD14 Parking Standards

8. **CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the acceptability of the use in principle; the impact of the proposal on the character and appearance of the surrounding area; the impact on transport; and the impact on neighbour amenity.
- 8.2 **Principle of Development:**
The proposed site forms part of a petrol station set on the London Road. The site itself is set within a mixture of uses with residential properties to the north east and commercial properties to the east including a repair garage and a supermarket on Old London Road.
- 8.3 The proposal would be located within an existing area of hardstanding which appears to be relatively unused and underutilised. None of the floorspace of the petrol station itself would be lost as a result of the development.
- 8.4 It is considered that the minimal loss of an area of the car park would result in a marginal impact of the viability or function of the unit.
- 8.5 **Design and Appearance:**
The proposed structure would be located adjacent to the eastern (rear) wall of the site and would consist of a 3m tall wall to the rear with three 2.4m tall glazed partitions in order to create two car wash bays.
- 8.6 The proposal site is adjacent to the Patcham Conservation area in addition to several Grade II Listed Buildings and one Grade II* Listed Building - Southdown House (51 Old London Road). As the proposal would not fall within the conservation area and would not be within the curtilage of the neighbouring Listed Buildings and would be screened by the boundary treatment it is not considered that any significant harm would occur to the setting.
- 8.7 Whilst the proposal would be prominent when viewed from London Road, the structure would not appear overly prominent due to openness of the structure and the glazed partitions. The structure is not considered to appear incongruous given the commercial nature of the site and the surrounding context including the petrol station canopy and associated structures.
- 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 properties most likely to be affected by the proposal would be those immediately adjacent to the rear of the site on Old London Road. The proposed washing bays would be located adjacent to the eastern boundary of the site, directly opposite 51 and 49 Old London Road and close to the rear garden of 1 Southdown Mews. Whilst the physical structure would be partially visible from the neighbouring gardens the majority of it would be screened by the existing wall on site and vegetation adjacent to the boundary. Having

regard to the existing screening and the approximate 11m-15m separation between the proposal site and neighbouring properties is not considered that the development would give rise to significant loss of light or outlook.

- 8.10 The main area of concern relates to the potential noise impact of the proposal, given the close proximity to residential dwellings.
- 8.11 Environmental Health raised concerns with regards to potential noise issues from the use of the jet washing, and as such an acoustic report was requested in order to demonstrate the noise impact of the proposal on residential properties.
- 8.12 This report has been assessed by the Environmental Health team, who consider it to be scientifically robust.
- 8.13 The report has undertaken background measurements at the proposed site, and has assessed another Highway Stop utilizing the same model of jet wash proposed. With regards to the proposed equipment, the report has measured the jet wash itself, the jet wash alarm, and the vacuum. The loudest of these was the alarm.
- 8.14 The report demonstrates that due to the high traffic noise level produced by London Road, the noise from the proposed car wash equipment will be 13 dB to 26 dB below the current background at the nearest residential receptors, during the proposed hours of operation. As such the report concludes that proposed would be considered to have "Low Impact" on neighbouring residents under BS4142:2014.
- 8.15 The Environmental Health team have recommended that the operational hours of the car wash facilities shall be restricted to between 8:00 and 20:00. This shall be secured by condition.
- 8.15 **Sustainable Transport:**
The sustainable transport team have confirmed that the proposed car wash facilities are unlikely to have a significant impact on the highway being on a site that has adequate capacity and already accommodates vehicles.
- 8.16 **Other Matters:**
It has been noted that several of the objections relate to history of flooding and possible flooding as a result of the proposed development. Southern Water have been consulted as part of the application and require a formal application for connection to the public sewerage system for this development.

9. EQUALITIES

- 9.1 None identified.

ITEM E

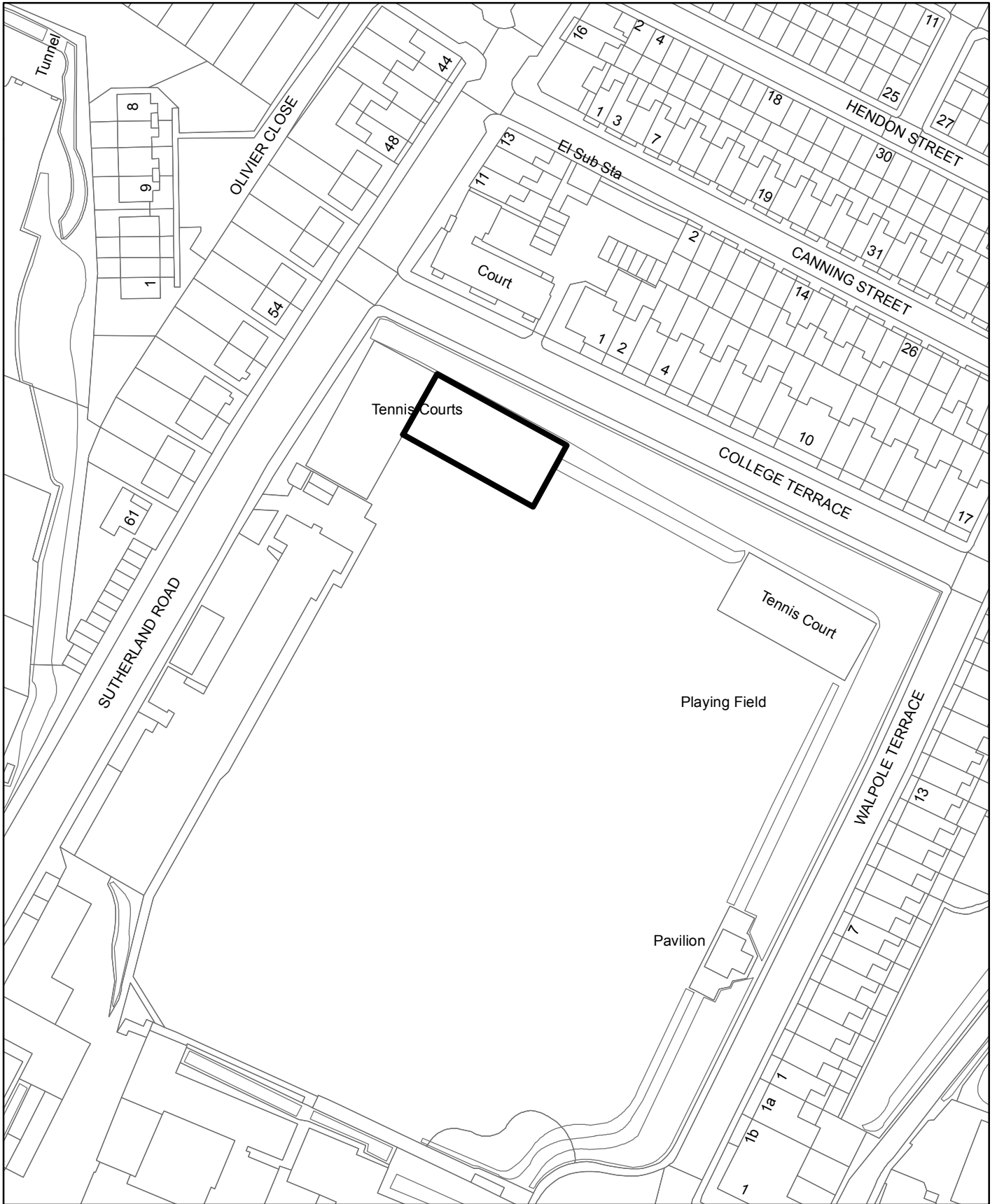
Brighton College, Eastern Rd, Brighton

BH2017/00482

Full Planning

DATE OF COMMITTEE: 21st June 2017

BH2017/00482 Brighton College, Eastern Rd Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2017/00482	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Brighton College Eastern Road Brighton BN2 0AJ		
<u>Proposal:</u>	Erection of a two storey temporary classroom with ancillary temporary two storey changing rooms, single storey temporary toilets & storage unit.		
<u>Officer:</u>	Helen Hobbs, tel: 293335	<u>Valid Date:</u>	24.02.2017
<u>Con Area:</u>	College and Adjoining East Cliff	<u>Expiry Date:</u>	21.04.2017
<u>Listed Building Grade:</u>	Grade II listed wall	<u>EOT:</u>	
<u>Agent:</u>	Miss Lydia Parsons Highbridge Somerset TA9 4PW	Portakabin Ltd Total Solutions Bennett Road	
<u>Applicant:</u>	Mr Steve Patten Eastern Road Brighton BN2 0AL		

Councillor Chapman has requested that this application be 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.

Plan Type	Reference	Version	Date Received
Location Plan	TSLP220137838		10 February 2017
Block Plan Proposed	TSLP220137838	1	17 February 2017
Floor plans/elevations/sect proposed	PE161		22 February 2017
Floor plans/elevations/sect proposed	BR0076	B	22 February 2017
Floor plans/elevations/sect proposed	BR0082	B	22 February 2017
Floor plans/elevations/sect proposed	HD/9797/10		22 February 2017
Floor plans/elevations/sect proposed	PSN8/68		16 February 2017

- 2 The temporary buildings hereby permitted shall be removed and the land restored to its condition immediately prior to the development authorised by this permission commencing on or before 1 August 2020 or following the occupation of the development approved under **BH2015/02403**, whichever is sooner, in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

Reason: The structure hereby approved is not considered suitable as a permanent form of development and to comply with policies CP12 and CP15 of the Brighton and Hove City Plan Part One.

Reason: The structure hereby approved is not considered suitable as a permanent form of development and to comply with policies CP12 and CP15 of the Brighton and Hove City Plan Part One and HE3 and HE6 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. **SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 Brighton College forms part of the College Conservation Area and lies adjacent to the north of the East Cliff Conservation Area. The College campus is bounded to the east by Walpole Road and Walpole Terrace, to the north by College Terrace, and to the west by Sutherland Road. The majority of the buildings are located to the southern half of the site and along the western boundary, with playing fields to the northern part of the site. The site contains a number of listed buildings including the Chapel, the Gallery and Hall, Chichester House, School House, Dawson House, the Dinner Hall and the Head masters House. The development site forms part of a multi games court area and is located at the north end of the site within close proximity to the listed boundary wall which runs along Walpole Terrace and College Terrace.
- 2.2 The application seeks consent for a two storey modular classroom and 4 temporary ancillary buildings including a two storey changing facility, two storey toilet/showers, single storey toilet and showers and a storage unit.

3. **RELEVANT HISTORY**

BH2015/04396 Erection of two storey temporary classroom modular building. Approved 05/02/16.

BH2015/02403 Demolition of existing Sports Hall, Chowen building and Blackshaw building and Pavilion to facilitate erection of a new 4 storey (including lower ground) Sports and Sciences building together with associated works. Removal of a section of the boundary wall facing Sutherland Road to

create new car park entrance with car lift to underground parking area. Approved 02/07/2015.

BH2015/02404 Listed building consent for the removal of a section of the boundary wall facing Sutherland Road to create new car park entrance with car lift to underground parking area. Approved 26/10/2015

BH2014/02054 Demolition of existing swimming pool and old music school buildings and erection of a 5no storey new academic building with connections to the Great Hall and Skidelsky building, including removal of existing elm tree and other associated works. Refused 22/09/2014. Appeal Allowed.

4. REPRESENTATIONS

4.1 Three (3) letters have been received, objecting the proposed development for the following reasons:

- No site notice displayed
- The land is active play space
- Inappropriate for a conservation area
- Set a bad precedent and could become permanent
- Safety during installation
- Reference has also been made to other applications at the site

4.2 **Councillor Chapman** Objects to the application (comments attached).

5. CONSULTATIONS

5.1 Transport:

Recommended approval as the Highway Authority has no objections. It is noted that the application is for temporary permission and that the facility is intended to provide classroom space to accommodate pupils displaced by construction elsewhere on the campus. It is not considered therefore that there would be an additional highways and transport impact in this instance.

5.2 Sport England:

Comments awaited

6. MATERIAL CONSIDERATIONS

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

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016)
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);

- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

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

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
 CP8 Sustainable buildings
 CP12 Urban design
 CP15 Heritage
 CP16 Open space
 CP17 Sports Provision

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

TR4 Travel plans
 TR7 Safe Development
 QD14 Extensions and alterations
 HE1 Listed buildings
 HE3 Development affecting the setting of a listed building
 HE6 Development within or affecting the setting of conservation areas

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the impact of the temporary classroom building on the appearance of the site, the setting of the adjacent listed buildings and boundary wall, the wider College Conservation Area, and the amenities of adjacent occupiers.
- 8.2 The application seeks consent for a two storey modular classroom and 4 temporary ancillary buildings including a two storey changing facility, two storey toilet/showers, single storey toilet and showers and a storage unit. The buildings would be grey and the external walls are constructed from high performance plastisol-coated galvanized steel cladding.
- 8.3 The facilities are required for a three year period to facilitate the construction of the recently approved sports and science building, which is envisaged to take approximately 2 years to complete. The re-development of the site includes implementing the works approved under **BH2015/02403** which involves the demolition of the existing sports hall, Chowen building and Blackshaw building and Pavilion to facilitate the erection of a new 4 storey Sports and Sciences building. The temporary buildings would therefore allow the existing buildings to be de-canted.

- 8.4 The site currently has a temporary portakabin which was granted planning permission in 2016. This temporary building is situated on land that will need to be utilised by the contractors carrying out the building works. It is proposed that this building will be removed and part of it will be re-used for the modular units proposed under this current application.
- 8.5 The modular classrooms would result in the temporary suspension of the multi games court area, however the college have stated that the adjacent court would still be useable and the college would have use of alternative facilities at the prep school only a short distance from the site. Whilst this is not ideal, it is considered that the pupils would be provided with suitable replacement facilities over the 3 year period that the proposed buildings would be in situ.
- 8.6 The proposed buildings would not be an attractive addition to the school, however they would be set below the existing high boundary wall along College Terrace. As acknowledged in the 2015 application for a modular classroom, that despite the boundary screenings the building would still have an incongruous and stark presence when seen from adjacent streets and from inside the campus. As a permanent structure this would result in clear harm to the setting of the adjacent Grade II listed wall and the College conservation area. However, as a temporary structure only whilst construction works are carried out to implement a planning permission that would have a longer term public benefit to the appearance of the site, setting of listed buildings and conservation area, no significant long term harm is identified. This is still considered to be the case and the 3 year temporary period being sought is considered acceptable.
- 8.7 The proposed temporary buildings are considered acceptable only as a temporary installation whilst works to implement planning permission **BH2015/02403** are carried out, and as such would not harm the setting of the adjacent listed buildings, listed wall and the College Conservation Area in the longer term, in accordance with development plan policies.

9. EQUALITIES

- 9.1 The upper floor classrooms are accessed by a flight of steps.



PLANNING COMMITTEE LIST
DATE OF COMMITTEE: 21st June 2017
COUNCILLOR REPRESENTATION

From: Daniel Chapman
Sent: 31 March 2017 9:09 PM
To: Liz Hobden
Cc: Karen Barford
Subject: Fwd: Brighton College Developments

Dear Liz,

I have received the below email from a resident who has concerns over planning application BH2017/00482. Please would you take this in to consideration going forward with the planning application and I would request that this is heard at a full planning meeting if it is not already scheduled to be.

Many thanks

Daniel

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

ITEM F

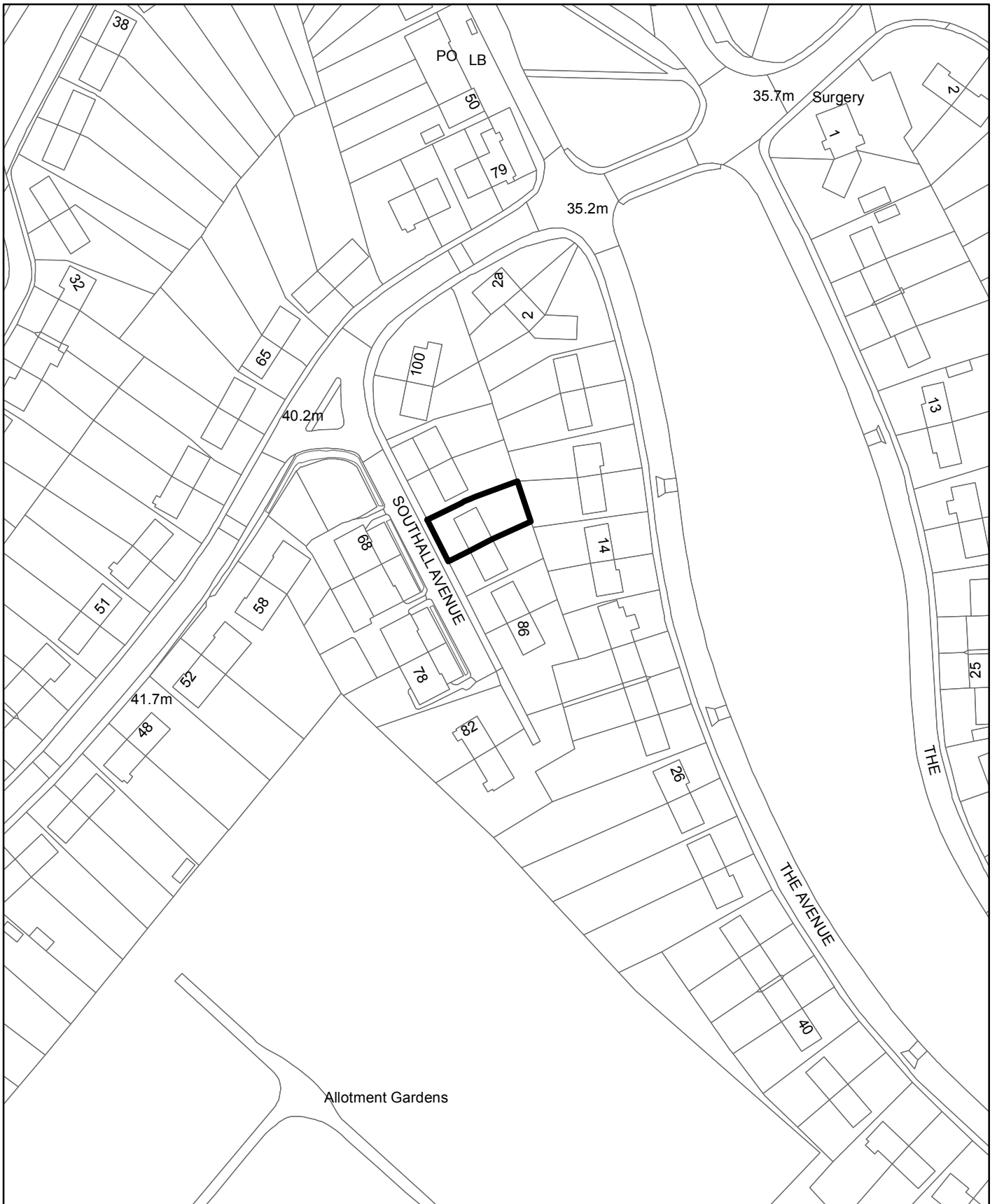
92 Southall Rd, Brighton

BH2017/00690

Full Planning

DATE OF COMMITTEE: 21st June 2017

BH2017/00690 92 Southall Avenue Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2017/00690	<u>Ward:</u>	Moulsecoomb And Bevendean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	92 Southall Avenue Brighton BN2 4BB		
<u>Proposal:</u>	Change of use from a three bedroom single dwelling (C3) to a four bedroom small house in multiple occupation (C4).		
<u>Officer:</u>	Helen Hobbs, tel: 293335	<u>Valid Date:</u>	28.02.2017
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	25.04.2017
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Dowsett Mayhew Planning Partnership Anthony Foster Dowsett Mayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		
<u>Applicant:</u>	Terry Mole C/O Agent Anthony Foster Dowsett Mayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		

1. RECOMMENDATION

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

Conditions:

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

Plan Type	Reference	Version	Date Received
Floor Plans/elevations/sect proposed	P.01		28 February 2017
Existing Floor Plans and Elevations	01		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 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.

- 4 The development hereby approved shall be implemented in accordance with the proposed layout detailed on drawing no. P.01 received on 28 February 2017 and shall be retained as such thereafter. The ground floor rooms annotated as living room and kitchen as set out on drawing no. P.01 shall be retained as communal space and none of these rooms shall be used as bedrooms at any time.

Reason: To ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.

5. No extension, enlargement, alteration or provision within the curtilage of the of the dwellinghouse 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.

Informatives:

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

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to a two storey semi-detached property on the east side of Southall Avenue.
- 2.2 The application seeks consent for the change of use from a three bedroom single dwelling (C4) to a four bedroom small house in multiple occupation (C4).

3. RELEVANT HISTORY

- 3.1 None.

4. REPRESENTATIONS

- 4.1 Ten (10) letters have been received objecting to the proposed development for the following reasons:
 - There is already more than 10% of properties in use as a HMO within the area
 - Increase in rubbish
 - Width of pavement for larger refuse bins

- Anti-social behaviour
- Noise and disturbance
- Increase in parking

4.2 Councillor Meadows Objects to the application (comments attached).

4.3 Councillor Yates objects to the application (comments attached).

4.4 Councillor Marsh objects to the application (comments attached).

5. CONSULTATIONS

5.1 Sustainable Transport: Comment

Recommended approval as the Highway Authority has no objections subject to inclusion of the necessary condition.

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

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 4 unrelated individuals (in this case 4 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:
- 8.4 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.'
- 8.5 A mapping exercise has taken place which indicates that there are 38 neighbouring residential properties within a 50m radius of the application property. Three (3) 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 7.89%, which is less than 10%. The proposal to change to a C4 HMO would be in accordance with policy CP21.
- 8.6 Standard of accommodation:
The layout provides kitchen/dining/living room and one bedroom to the ground floor, three bedrooms to the first floor.
- 8.7 Ground floor bedroom measures: 9.2m².
First floor bedrooms measure: 12.5m², 8.5m² and 7.5m²

- 8.8 All four 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 7.5m². The bedrooms are therefore all considered to be of adequate size with good circulation space and levels of natural light and outlook.
- 8.9 The communal living space would be the ground floor kitchen/dining/living room (28.5m²). This is considered an adequate provision. The HMO would also have access to the rear garden which would provide some additional amenity space.
- 8.10 Impact on Amenity:
The occupancy would be restricted to 4 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.
- 8.11 The overall percentage of HMO's within a 50m radius is 7.89 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.
- 8.12 Sustainable Transport:
One off-street parking space is provided which is in accordance with the maximum of 0.25 per bedroom permitted for Houses in Multiple Occupation (HMO) by SPD14. Although there is potential for additional parking on-street, it is not considered that this would be of a level that could be deemed to amount to a severe impact and therefore not warrant refusal on transport grounds under the National Planning Policy Framework.
- 8.13 SPD14 requires a minimum of two cycle parking spaces for this HMO. A shed is provided in the rear garden which could serve this purpose and is considered acceptable for a single private residential dwelling. It is recommended that this be secured by condition.

9. EQUALITIES

- 9.1 None identified.

92 Southall Avenue

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

- Potential for noise and other environmental disturbance including waste management
- issues
- Inadequate provision of parking and consequential impact to on street parking.
- Impact on community resources such as schools and health facilities due to the loss of family accommodation
-

From: Mo Marsh
Sent: 15 March 2017 9:43 AM
To: Nicola Hurley
Cc: Anne Meadows
Subject: Fw: planning objections

Please add my objections and the same requests as Cllr Yates regarding coming to committee and speaking on behalf of our residents. Thanks

Kind regards,
Mo Marsh
Labour Councillor for Moulsecoomb and Bevendean.
Deputy Mayor of Brighton and Hove City Council
Member of Health Overview and Scrutiny,
Chair, Member Development Working Group.
Chair, Educational Trust funds trustees
Hove Town Hall, Norton Rd, Hove BN3 3BQ



PLANNING COMMITTEE LIST
DATE OF COMMITTEE: 21st June 2017

COUNCILLOR REPRESENTATION

BH2017/00690 92 Southall Avenue Brighton BN2 4BB
Change of use from a three bedroom single dwelling (C3) to a
four bedroom small house in multiple occupation (C4).

I am writing to oppose this planning application as it is an area already saturated with HMO's
and the 10% rule for Article 4 should be invoked and refused completely.

Regards
Anne Meadows
Councillor for Moulsecoomb & Bevendean Ward
Chair of Housing & New Homes Committee
Chair of Procurement Advisory Board
Brighton & Hove City Council
Hove Town Hall
Norton Road
Hove
BN3 3BQ

COUNCILLOR REPRESENTATION

Comment reference number: 1060021
I object to the Planning Application

Sender's details

Cllr Dan Yates
92 Hodshrove Rd
BN2 4RS
Neighbour consultation letter: n/a

Comment

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

- Potential for noise and other environmental disturbance including waste management issues
- Inadequate provision of parking and consequential impact to on street parking.
- Impact on community resources such as schools and health facilities due to the loss of family accommodation.

It would also be helpful if the officer report could outline the impact of this being granted would have on the councils ability to meet its commitments within city plan part one. Especially the requirements and the council's ability to meet its housing needs assessment.

I note that there are already 23 HMO licenses in place in this road and I would like their impact on the 10% rule considered within the report.

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

Should the committee be minded to approve this application I would ask them to consider the removal of permitted development rights to ensure that any subsequent enlargement of alteration be fully considered before being approved for development on this site.

Information on Pre-application Presentations and Requests 2017

Date	Address	Ward	Proposal	Update
TBC 20th June 2017 requested	Land Off Overdown Rise And Mile Oak Road, Portslade	North Portslade	Outline development with all matters reserved other than access for the erection of 125 dwellings along with associated access, open space, landscaping and parking.	
TBC 20th June 2017 requested	St Aubyns School, 76 High Street, Rottingdean	Rottingdean Coastal	Redevelopment of school campus and part of school playing field.	
11 th April 2017	Former Lectern PH, 2-6 Pelham Terrace, Brighton	Moulsecoomb & Bevendean	Redevelopment to provide student housing scheme comprising circa 228 studio rooms together with ancillary support accommodation at ground floor and 2 commercial units (café and retail) fronting Lewes Road.	Awaiting submission of application.
7th February 2017	189 Kingsway, Hove (former Sackville Hotel)	Westbourne	Construction of 8 storey residential block.	Application BH2017/01108 submitted.
7 th February 2017	60-62 & 65 Gladstone Place, Brighton	Hanover & Elm Grove	Redevelopment to provide mixed, student and residential scheme.	Awaiting submission of application.
10 th January 2017	West Blatchington Primary School, Hangleton Way,	Hangleton & Knoll	Redevelopment to provide new secondary school and junior school.	Awaiting submission of application.

NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in Hove Town Hall on the date given after scheduled site visits unless otherwise stated.

	Hove			
13 th December 2016	Preston Barracks/Mithras House/Watts Car Park, Lewes Road, Brighton	Hollingdean & Stanmer and Moulsecoomb & Bevendean	Mixed use development comprising research laboratory, student accommodation, University teaching facilities, residential, retail and parking.	Application BH2017/00492 submitted.
11 th October 2016	Hollingbury Industrial Estate – Units 2 & 8, Crowhurst Road, Brighton	Patcham	Northern part of site - demolition of existing building & construction of a two storey car dealership building. 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 th September 2016	Life Science Building, Sussex University	Hollingdean & Stanmer	17,000sqm teaching space and café.	Application BH2016/05810 granted.
13 th September 2016	Boots, North Street/Queen's Road, Brighton	St Peters & North Laine	Demolition of existing building and construction of new retail store.	Awaiting submission of application.
2 nd August 2016	Medina House, 9 Kings Esplanade, Hove	Central Hove	Demolition of existing building and construction of a new dwelling.	Application BH2016/05893 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.

PLANNING COMMITTEE: 21 June 2017

Agenda Item 10

Brighton & Hove City Council

NEW APPEALS RECEIVED

WARD

HANGLETON AND KNOLL

APPEALAPPNUMBER

BH2017/00002

ADDRESS

107 Boundary Road Hove BN3 7GB

DEVELOPMENT DESCRIPTION

Demolition of existing house and erection of 7no flats (C3) with associated parking.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

03/05/2017

APPLICATION DECISION LEVEL

Delegated

WARD

HANOVER AND ELM GROVE

APPEALAPPNUMBER

BH2016/05316

ADDRESS

124 Lewes Road Brighton BN2 3LG

DEVELOPMENT DESCRIPTION

Erection of second and third floor extension and associated alterations to facilitate existing 8 bedroom house of multiple occupation into 19 bedroom Purpose Built Student Accommodation (Sui Generis).

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

03/05/2017

APPLICATION DECISION LEVEL

Delegated

WARD

ROTTINGDEAN COASTAL

APPEALAPPNUMBER

BH2015/02717

ADDRESS

66 High Street, Rottingdean, Brighton, BN2 7HF

DEVELOPMENT DESCRIPTION

Internal alterations to layout and external alterations including installation of rooflight to both side elevations, erection of chimney stack, replacement guttering and pipes and removal of masonry paint (part retrospective).

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

02/05/2017

APPLICATION DECISION LEVEL

Delegated

<u>WARD</u>	ROTTINGDEAN COASTAL
<u>APPEALAPPNUMBER</u>	BH2016/01981
<u>ADDRESS</u>	Land At Roedean Path Brighton
<u>DEVELOPMENT DESCRIPTION</u>	Erection of 1no detached house (C3) with associated private garden and on-site parking space.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	03/05/2017
<u>APPLICATION DECISION LEVEL</u>	Delegated

<u>WARD</u>	ROTTINGDEAN COASTAL
<u>APPEALAPPNUMBER</u>	BH2016/06106
<u>ADDRESS</u>	114 High Street Rottingdean Brighton BN2 7HF
<u>DEVELOPMENT DESCRIPTION</u>	Creation of a first floor balcony on timber supports (retrospective).
<u>APPEAL STATUS</u>	APPEAL ALLOWED
<u>APPEAL RECEIVED DATE</u>	18/04/2017
<u>APPLICATION DECISION LEVEL</u>	Delegated

PLANNING COMMITTEE: 21 June 2017

Agenda Item 11

Brighton & Hove City Council



**Brighton & Hove
City Council**

INFORMATION ON HEARINGS / PUBLIC INQUIRIES

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

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 th to 16 th June 2017, Brighton Town Hall
Site Location:	46-54 Old London Road, Brighton

APPEAL DECISIONS

	Page
A – 35 GUILDFORD STREET, BRIGHTON – ST PETER’S & NORTH LAINE	187
<p>Enforcement Decision - That without planning permission, erection of a rear roof terrace and metal staircase creating access from the rear garden to the flat roof of the single storey extension. ENFORCEMENT DECISION UPHELD</p>	
B – 11 BALSDEAN ROAD, WOODINGDEAN, BRIGHTON - WOODINGDEAN	
<p>Enforcement Decision - That without planning permission,</p> <ul style="list-style-type: none"> (i) installation of cedar cladding on all dormers at the property; (ii) installation of new grey windows in the front, side and rear dormers at the property; (iii) change in the dimensions of the front dormer window; and (iv) installation of solar panels on the roof of the side and rear dormers, which project more than 0.2metres beyond the plane of the roof slope when measured form the perpendicular with the external surface of the wall or roof slope. ENFORCEMENT DECISION UPHELD 	191
C – 30 GRAND CRESCENT, ROTTINGDEAN, ROTTINGDEAN COASTAL	195
<p>Application BH2016/05109 – Appeal against a refusal to grant planning permission for loft conversion, garage conversion and installation of bi fold doors to south facing ground floor extension. APPEAL DISMISSED (delegated decision)</p>	
D – 114 HIGH STREET, ROTTINGDEAN, BRIGHTON – ROTTINGDEAN COASTAL	201
<p>Application BH2016/06106 – Appeal against a refusal to grant planning permission for creation of a first floor balcony on timber supports (retrospective). APPEAL ALLOWED (delegated decision)</p>	
E – 106 GREENWAYS, ROTTINGDEAN, BRIGHTON – ROTTINGDEAN COASTAL	201
<p>Application BH2016/01693 – Appeal against a refusal to grant planning permission for bungalow with parking APPEAL DISMISSED (delegated decision)</p>	

F – 4A MANSFIELD ROAD, HOVE – WISH 205

Application BH2016/05487 – Appeal against refusal to grant planning permission for two storey rear extension including conversion of existing roof. **APPEAL ALLOWED** (delegated decision)

G – GARAGES REAR OF 5 GLEBE VILLAS, HOVE – WISH 209

Application BH2015/04624 – Appeal against refusal to grant planning permission for conversion of existing double garage at land to the rear of 5 Glebe Villas, into a dwelling. **APPEAL DISMISSED** (delegated decision)

H – 63 BERRIDALE AVENUE, HOVE – WISH 213

Application BH2016/00582 – Appeal against refusal to grant planning permission to replace garage with the erection of a single storey side extension. **APPEAL DISMISSED** (delegated decision)

I – 122 THE AVENUE, BRIGHTON – MOULSECOOMB & BEVENDEAN 215

Application BH2016/05918 – Appeal against refusal to grant planning permission change of use of existing C4 small house in multiple occupation to Sui Generis large house in multiple occupation **APPEAL ALLOWED** (delegated decision)

J – 126 NEWICK ROAD, BRIGHTON – MOULSECOOMB & BEVENDEAN 221

Application BH201602887 – Appeal against refusal to grant planning permission for change from C3 to C4. **APPEAL DISMISSED** (delegated decision)

K – 107 BOUNDARY ROAD, HOVE – HANGLETON & KNOLL 223

Application BH2016/02047 – Appeal against refusal to grant planning permission for demolition of existing house and erection of building to form 7 flats with associated parking. **APPEAL ALLOWED** (delegated decision)

L – 43 HALLYBURTON ROAD, HOVE – HANGLETON & KNOLL 231

Application BH2016/05075 – Appeal against refusal to grant planning permission for erection of new 3 bedroom house on land next to 43

Hallyburton Road with front and rear amenity space. **APPEAL DISMISSED** (delegated decision)

M – LAND AT GATEWAYS, HIGHDOWN ROAD, HOVE – GOLDSMID 233

Application BH2016/05487 – Appeal against a refusal to grant a lawful development certificate for building works included on the plans attached to the application, namely block plan, location plan, Drawing MM/02/Gateways **APPEAL DISMISSED** (delegated decision)

N – 85 ROTHERFIELD CRESCENT, BRIGHTON – PATCHAM 237

Application BH2016/01796 – Appeal against refusal to grant planning permission for two proposed semi-detached houses. **APPEAL DISMISSED** (delegated decision)

O – 84 WAYLAND AVENUE, BRIGHTON – WITHDEAN 245

Application BH2016/05928 – Appeal against refusal to grant planning permission for a first floor side extension and internal alterations. **APPEAL DISMISSED** (delegated decision)

P – 11 CROSS STREET, HOVE – BRUNSWICK & ADELAIDE 247

Application BH2016/05314 – Appeal against a refusal to grant planning permission for change of use from small House in Multiple Occupation. **APPEAL ALLOWED** (Committee decision)

Q – 44 OLD SHOREHAM, ROAD, HOVE – GOLDSMID

Application BH2016/05621 – Appeal against refusal to grant planning permission for a two storey side extension linking the house to the adjacent garage. **APPEAL DISMISSED** (delegated decision) **Page 251**

R – 1 GOLDSTONE STREET, HOVE – GOLDSMID

Application BH2016/05201 - Appeal against refusal to grant planning permission for erection of 1 house (C1) with ground and lower ground floor. **APPEAL DISMISSED** (delegated decision) **Page 253**

S– 35 LENHAM AVENUE, SALTDEAN, BRIGHTON – ROTTINGDEAN COASTAL

Application BH2016/05334 – Appeal against refusal to grant planning permission for proposed conversion of an existing bungalow into a 1 1/2 storey house with pitched roof first floor and internal alterations) **APPEAL DISMISSED** (delegated decision) **Page 257**

T – 246 MACKIE AVENUE, BRIGHTON - PATCHAM

Application BH2016/05632 – Appeal against refusal to grant planning permission for a single storey side extension, alterations to roof with rear dormer and roof lights to the front, alteration to the rear sun-lounge. **APPEAL ALLOWED** (delegated decision) **Page 259**

U – 73 HIGH STREET, BRIGHTON – QUEEN'S PARK

Applications BH2016/01369; BH2016/01370; and 01367 – Appeal against refusal to grant planning permission for rear second floor extension, erection on new third floor, loft conversion and alterations. **APPEALS DISMISSED** (delegated decision) **Page 263**

V – 49 BRUNSWICK STREET WEST, HOVE – BRUNSWICK & ADELAIDE

Application BH2016/01753 – Appeal against refusal to grant planning permission for conversion of an existing auto-garage to a two bedroom dwelling, to include raising the existing roof height to create an upper storey for the property. The materials will match the existing as far as is possible, with the aesthetics of the existing building retained. **APPEAL DISMISSED** (delegated decision) **Page 267**

W – 23 TRECROFT, HOVE – HOVE PARK

Application BH2017/00221 – Appeal against refusal to grant planning permission for first floor rear extension and associated alterations. **APPEAL DISMISSED** (delegated decision) **Page 273**

X – BRIGHTON ROCK CAFÉ, ARCH 302, KIOSK, MADEIRA DRIVE, BRIGHTON – QUEEN'S PARK

Application BH2016/02723 – Appeal against refusal to grant planning permission for proposed extension and alteration to the existing kiosk building to provide a first floor level servery at pavement height on Madeira Drive. **APPEAL DISMISSED** (delegated decision) **Page 275**

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: 24 April 2017

Appeal Ref: APP/Q1445/C/16/3163681 35 Guildford Street, Brighton BN1 3LS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Katharine Bullock against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 6 October 2016.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a rear roof terrace and metal staircase creating access from the rear garden to the flat roof of the single storey extension.
 - The requirements of the notice are 1. Remove the metal staircase from the north east corner of the property that provides access from the rear garden to the flat roof of the single storey extension. 2. Remove the metal balustrades, supports, hand rail and supporting structures from the top of the flat roof of the single storey projection at lower ground floor level at the rear. 3. Cease the use of the rear flat roof of the single storey projection at lower ground floor level as a roof terrace.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. It is directed that the enforcement notice is varied by the deletion of step 3 from paragraph 5 of the notice. Subject to this variation, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The ground (a) appeal and the deemed planning application

Main Issue

2. The main issue is the effect of the development on the living conditions of neighbouring occupiers, having regard to privacy, noise and disturbance.

Reasons

3. The appeal relates to a mid-terrace property situated in the West Hill Conservation Area (CA). The building is two storeys in height at the front but with basement accommodation that opens on to a small courtyard at the rear. A single storey addition has been added to the end of a half width rear extension that occupies most of the courtyard. Stairs from the level of the courtyard provide access to the flat roof of the addition. Wooden decking has been placed on the roof to create a terrace about 2.5m x 2m in area and around the edge there is a post and wire enclosure.
-

4. From the roof terrace it is possible to see directly into the courtyard at No 36 as well as into its habitable room windows at first floor level if looking towards the rear of the terrace. From the staircase it is possible to see into the courtyard of No 34, though this would be a momentary view whilst using the staircase. However, it is Nos 8 and 9 Camden Terrace that are most affected by the development. This is because the appeal property is sited higher on the hillside than these detached dwellings and the roof terrace is therefore in an elevated position.
5. Nos 8 and 9 generally look onto and are accessed from a narrow passageway that runs parallel to Guildford Street. The rear walls of the dwellings back onto the rear boundaries of the houses in Guildford Street and do not contain any windows. No 8 has a small side garden that is adjacent to the rear boundary of the appeal site. This is entirely overlooked by anyone using the roof terrace. No 9 has, what appears to be, a habitable room window at first floor level overlooking the garden of No 8 and anyone using the roof terrace would be able to see into this room due to its close proximity.
6. On the opposite side of the passageway there are two pairs of cottages facing each other separated by small front gardens. From the roof terrace it is possible to see over the top of these gardens but due to their size, intervening fencing and position on the opposite side of the passageway, I consider it is not possible to look directly into them. Any perceived loss of privacy is therefore limited. From the roof terrace it is also possible to obtain views into the first floor bay windows of the cottages. However, these views are restricted to being oblique views only and the harm caused by the development in this respect is insignificant, especially as there is a high level of existing mutual overlooking from the cottages.
7. With regard to noise and disturbance, I consider it is the occupiers of Nos 8 and 9 who would be most affected by any activities on the roof terrace. On this point, the occupier of No 8 has stated that he has been disturbed by people playing loud music on the terrace. The appellant states that the previous occupiers of the appeal site regularly climbed on to the flat roof. As there is a significant drop into the neighbour's courtyard she installed a hand rail for health and safety reasons. The Council's requirement to remove it could give rise to health and safety concerns again. However, I consider matters of health and safety do not make the current development acceptable and do not override the effect of the development on the living conditions of neighbouring occupiers.
8. The appellant also takes the view that no one has a right 'not to be overlooked' and the use of any outside space in this densely developed area has the potential to cause a disturbance. Whilst in general external sounds might be more noticeable due to the close layout of the properties, the proximity between the appeal site and Nos 8 and 9 is different and has the potential to result in significant harm. The Council's policies refer to a number of matters when considering the acceptability of alterations to buildings and these include slope and overall height relationships, amongst other issues. They also require that development does not result in a significant loss of privacy and that regard should be had to the existing space around buildings. As such, the degree of overlooking from new development is an important issue which is also recognised by the National Planning Policy Framework (the Framework). This

states that planning should always seek to secure a good standard of amenity for all existing occupants of land and buildings.

Other Matters

9. The site lies within the CA. I shall therefore have regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The distinctive character and appearance of the area stems in part from the homogeneity of the terraced housing. The development of the roof terrace does not harm this characteristic as it is tucked away at the rear and is a simple structure with a modest effect on the appearance of the host property. For these reasons I consider it preserves the character and appearance of the CA.

Conclusion on the ground (a) appeal and the deemed planning application

10. For the reasons given I conclude that the development results in harm to the living conditions of neighbouring occupiers, having regard to privacy, noise and disturbance. It therefore does not accord with Policies QD14 and QQD27 of Brighton and Hove's Local Plan, adopted 2005. I give these policies weight as they are consistent with the Framework.

The ground (f) appeal

11. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in section 173 of the 1990 Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). In this case the Council require that the roof terrace and the staircase leading to it be removed. The purpose of the notice must therefore be to remedy the breach of planning control.
12. The Council also require the use of the flat roof area as a roof terrace to cease. The flat roof currently falls within a single planning unit which appears to have a lawful use as a house. The flat roof can therefore be used for any purpose which falls within the ambit of that use without the need for planning permission. I find in this case that the Council have confused a notice attacking operational development with a notice attacking a material change of use as the third requirement of the notice is to cease the use.
13. Where there is operational development, that should be identified in the allegation and its removal sought in the requirements. Where there is a material change of use, the requirements can seek both the use to cease and the works carried out to facilitate that use to be removed. It is therefore necessary to vary the requirements of the notice to delete the reference to the cessation of the use. There would be no prejudice to the appellant nor would this prejudice the Council as the reason for serving the notice is to remedy the breach of planning control, namely the erection of the roof terrace.
14. The appellant submits that the requirements of the notice are excessive and that an alternative lesser step could be to erect a privacy screen in place of or adjacent to the hand rail. However she does not state how high this would be, its extent or the material for the screen. She also states that as the staircase is below the wall of the courtyard that there is no need to remove this. Whilst the first suggestion might reduce the level of overlooking, it would not remedy the breach of planning control. Screening the terrace would not undo that

initial action of constructing the terrace and would not address all of the harm caused by the development set out in the reason for issuing the notice.

15. In any event, if I were to allow the appeal on ground (f) then I would need to vary the requirements of the notice in such a way that unambiguously sets out what needs to be done. The appellant has not adequately identified the lesser step and as such I am not able to vary the requirements. As no other lesser steps have been submitted, I therefore find that the steps required by the notice do not exceed what is necessary to remedy the harm caused and the appeal on ground (f) fails.

The ground (g) appeal

16. This ground of appeal is that the time given to comply with the requirements of the notice is too short. It is therefore limited in scope to a consideration of the actual time needed to carry out the work specified in the steps. The basis of the appellant's appeal though is that she needs to retain the roof terrace for three months to enable work to be done on the back of the house. She does not actually specify what she considers to be a reasonable period to undertake the works for removing the terrace.
17. The roof terrace and staircase are simple structures and I consider their removal by a competent builder could be achieved in the time specified. As such, I see no reason to vary the period for compliance. The appeal on ground (g) therefore fails.

Conclusion

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

D Fleming

INSPECTOR

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: 25 April 2017

Appeal Ref: APP/Q1445/C/16/3163997

11 Balsdean Road, Brighton BN2 6PG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Susan Ashley against an enforcement notice issued by Brighton & Hove City Council.
 - The enforcement notice was issued on 18 October 2016.
 - The breach of planning control as alleged in the notice is without planning permission,
 - (i) The installation of cedar cladding on all dormers at the property;
 - (ii) The installation of new grey windows in the front, side and rear dormers at the property;
 - (iii) The change in the dimensions of the front dormer window; and
 - (iv) The installation of solar panels on the roof of the side and rear dormers, which project more than 0.2metres beyond the plane of the roof slope when measured from the perpendicular with the external surface of the wall or roof slope.
 - The requirements of the notice are
 - Remove cedar cladding from all dormers and tile to match existing roof.
 - Remove grey windows in all dormers and replace or repaint to match existing white windows.
 - Return the front dormer to former dimensions, BH2015/04453 – existing plans and elevations – dwg.no.1306/E/01 dated 9 December 2015.
 - Reduce the projection of the solar panels from the roof to no more than 200mm
 - The period for compliance with the requirements is 24 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (e) and (f) of the Town and Country Planning Act 1990 as amended.
-

Decision

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

Background

2. The appeal relates to a detached bungalow which has a wrap-around dormer on three sides and a single entity dormer on the front elevation all of which are clad in wood. These replaced tile-hung dormers with uPVC fascia boarding which previously existed on each roof slope.
3. The Council have submitted a copy of a previous appeal decision¹ which sets out some of the background to this case.

¹ Ref: APP/Q1445/D/16/3150084 dated 16 August 2016

The ground (e) appeal

4. Under a ground (e) appeal the onus of proof is on the appellant to show that the notice has not been served as required by section 172 of the 1990 Act. S172(2) states a copy of the enforcement notice shall be served on the owner and on the occupier of the land to which the notice relates. The appellant is the owner of the property and her name is Susan Heather Ashley. However, the notice was served on 'Shirley Heather Ashley'. The Council advise that this was a simple typographical error.
5. Section 176(5) of the Act says the Secretary of State may disregard incorrect service where there has not been substantial prejudice. In this case the appellant has been able to lodge an appeal against the notice. The Council's unfortunate mistake has therefore resulted in no prejudice and the appeal on ground (e) fails.

The ground (c) appeal

6. Under a ground (c) appeal the onus of proof is on the appellant to show that there has not been breach of planning control. The appellant's submissions in relation to this ground of appeal are made only in relation to the first allegation which is concerned with the cedar wood cladding of the dormers.
7. A breach of planning control comprises the carrying out of development without the required planning permission. The appellant claims that the cedar wood cladding of the dormers does not breach planning control on the basis that the material used is of a similar appearance to existing materials used on the bungalow.
8. The meaning of development is set out in section 55(1) of the 1990 Act and includes the carrying out of building, engineering, mining and other operations, in, on, over or under land. S55(1A) confirms that such operations include rebuilding, structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder.
9. S55(2) of the Act goes on to clarify at subsection (a)(ii) that the carrying out of works that do not materially affect the external appearance of the building shall not be taken to involve development of the land. Therefore a judgement needs to be made depending on the facts of the case. It has been held that it is the effect of the development on the external appearance of the building and not just the exterior of the building which must be considered. Furthermore, judging the effect must be in relation to the building as a whole and not by reference to a part of the building taken in isolation.
10. I consider that the installation of cedar wood cladding on all the dormers has clearly affected the exterior of the building. Balsdean Road is situated on a steep incline and the tiled roof of the bungalow can be clearly seen from the public domain whether looking up or down the road. The steeply pitched, hipped gabled roof of the bungalow is one of the principle features of this building and the modern appearance of the cedar wood cladding is in marked contrast to not only the traditional roof tiles but also the traditional appearance of the bungalow. There has therefore been a noticeable change to the appearance of the building.
11. The appellant refers to condition B.2.(a) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). This requires

the materials used in any exterior work to be of a 'similar appearance' to those used in the construction of the exterior of the existing dwelling. She also refers to the Department for Communities and Local Government Technical Guidance (TG)² and quotes from the opening paragraph dealing with Class B.

12. The TG explains how the GPDO should be interpreted and I have taken that Guidance into account in dealing with this ground of appeal. The second bullet point after the opening paragraph explains further how the condition should be interpreted and states 'So the materials used for facing a dormer should appear to be of a similar *colour and design* (my emphasis) to the materials used in the main roof of the house when viewed from ground level'.
13. The appellant's submissions, which include photographs of the roof in different weather conditions, seek to emphasise that the cedar wood changes in colour depending on whether it is wet or dry, rather like the roof tiles. She also states that it has weathered in appearance since it was first installed. However, this does not address the 'design' compatibility of the chosen material which I find has a smooth finish in terms of its appearance and fixing compared to the overlapping and ridged profile of the existing roof tiles. I therefore consider that the cedar wood cladding does not have a 'similar appearance' to the existing roof tiles.
14. Having regard to all of the above considerations, I conclude, as a matter of fact and degree, that significant alterations have been made to the exterior of the building with the installation of cedar wood cladding to the dormers. These alterations are visible from the public domain and amount to a material change to the external appearance of the building. The alterations therefore amount to development within the meaning of s55 of the Act, for which planning permission would be required. Class B of the GPDO permits development in certain circumstances but the development in this case conflicts with the condition attached to the development given permission by Class B. The appeal on ground (c) therefore fails.

The ground (f) appeal

15. The appeal on ground (f) is that the requirements of the notice exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in section 173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). In this case the Council require the dormers to be re-clad in tiles, the dormer windows to be replaced or painted to match the existing windows, the dimensions of the front dormer to match previous plans and the projection of the solar panels to be reduced. The purpose of the notice must therefore be to remedy the breach of planning control.
16. The appellant's submissions on this ground are essentially limited to re-iterating that the Council's requirements are excessive. However, the onus is on the appellant to state the precise details of any lesser steps otherwise it is not possible to judge whether the Council's requirements are excessive or not. This has not been done and the appellant has only referred to the lack of an opportunity to discuss the matter with the Council. Unfortunately, in the absence of any stated lesser steps the appeal on ground (f) fails.

² Department for Communities and Local Government Permitted Development Rights for Householders, Technical Guidance April 2016, updated April 2017

Conclusion

17. For the reasons given above I consider that the appeal should not succeed.

D Fleming

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: 28 April 2017

Appeal Ref: APP/Q1445/D/17/3170224

30 Grand Crescent, Rottingdean, Brighton BN2 7GL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Jemma Fenton against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05109, dated 24 August 2016, was refused by notice dated 21 November 2016.
 - The development proposed is a loft conversion, garage conversion and installation of bi-fold doors to south facing ground floor elevation.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of No 30 Grand Crescent and the surrounding area.

Reasons

3. The appeal site is located within a residential area. Many of the properties are substantial although smaller dwellings are found in the area. Designs of properties including the roof vary significantly and this is a key characteristic of the area. Due to the sloping nature of the area the roofline of the dwellings is a particularly dominant feature of the street scene. Dormers are found in the area, with a few exceptions these are small dormers that sit centrally within the roof.
 4. No 30 Grand Crescent is a detached two storey dwelling. It differs from other properties as it has a much more symmetrical appearance when seen from Grand Crescent and The Park to the south. It also has a smaller total roof area than the majority of dwellings in the area, and is smaller in scale than its immediate neighbours. The appeal site has a planning history which includes two refused planning applications. The scheme before me seeks to overcome the previous concerns of the Council. Changes include the removal of the second floor accessible south facing balcony and the design of the dormers.
 5. The Council refers to the Design Guide for Extensions and Alterations Supplementary Planning Document (SPD) 2013. This indicates that dormer windows 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.
-

6. I accept that the proposal has been designed to make the most of views to the south and west, and to provide light and practical space for the occupiers. However, the proposed dormers would be large features containing double sash windows. The dormers would be high up enough within the roof that they would be highly visible in longer views from The Park even with the larger properties close by. Due to their position close to the ridgeline the dormers would considerably unbalance the appearance and general symmetry of the house when seen from The Park and from Grand Crescent. They would have a considerable size and bulk that would appear as prominent additions on the roof. I consider they would not be proportionate with the scale of the existing house.
7. The proposal would incorporate a barn-hip roof on the southern elevation with full glazing for the bedroom window. However, the design of this roof would not unbalance the appearance of the house and would be proportionate to the house. It would not be seen as an overly prominent addition even though it would be visible from The Park. Areas of glazing looking towards the sea are not uncommon within the area, and the window at the second floor would be acceptable in that context. However, this does not outweigh the harm I have found in respect of the dormers.
8. I have been referred to a number of developments within the immediate area. This includes two dwellings on Cranleigh Road that have dormers which are placed on the ridge line. However, I have not been provided with the circumstances which led to them being considered acceptable or indeed whether they have planning permission. Many of the dwellings referred to by the appellant are much larger in scale and proportions than the appeal site. As such I consider they differ from the appeal scheme. In any event, I have considered the proposal on the specific circumstances before me.
9. For the reasons given above, I conclude that the proposed development would cause harm to the character and appearance of No 30 Grand Crescent and the surrounding area. It would be in conflict with saved Policy QD14 of the Brighton and Hove Local Plan 2005 (retained 2016). This amongst other things seeks extensions and alterations that is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area. It would be contrary to the SPD.

Other matters

10. Views of the windows of the rear rooms of No 12 The Park are possible from the first floor of No 30. The second floor window would incorporate obscure glazing at the bottom and it would be set back within the roof thereby limiting direct views of the rear of No 12. There would be no access to the small area outside of this window. There would therefore be no loss of privacy for the occupiers of No 12. However, this does not justify the appeal proposal.

Conclusion

11. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L Gibbons

INSPECTOR

Appeal Decision

Site visit made on 3 May 2017

by **Nick Fagan BSc (Hons) DipTP MRTPI**

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

Decision date: 11th May 2017

Appeal Ref: APP/Q1445/D/17/3173074

114 High Street, Rottingdean, Brighton BN2 7HF

- 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 Michael Parkhouse against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/06106, dated 5 November 2016, was refused by notice dated 15 March 2017.
 - The development proposed is the creation of a first floor balcony on timber supports (retrospective).
-

Decision

1. The appeal is allowed and planning permission is granted for the creation of a first floor balcony on timber supports at 114 High Street, Rottingdean, Brighton BN2 7HF in accordance with the terms of the application, Ref BH2016/06106, dated 5 November 2016 and the plans submitted with it.

Procedural Matter

2. The above description of the development is the Local Planning Authority's (LPA) description, which is essentially an abbreviated version of the description set out on the application form. It accurately summarises the development, a first floor balcony to the rear of the house, accessed off a bedroom.

Main Issues

3. The main issues are the effect of the balcony on the character and appearance of the area, including whether it preserves or enhances the character and appearance of the Rottingdean Conservation Area, and its effect on the living conditions of neighbours with particular reference to privacy and noise.

Reasons

Character and Appearance

4. The appeal property is a two storey Edwardian end of terrace house on the corner of Vicarage Lane, which was previously in use as two flats prior to the LPA granting a Certificate of Lawfulness for its reversion to a house¹. There is agreement between the LPA and appellant that a wooden staircase with a landing smaller than the proposed balcony located in approximately the same place existed from 1978 until it was replaced by the new balcony in June 2016.

¹ BH2013/03651 Approved 16 December 2013

5. The LPA point out that two of the submitted drawings, Fig 4 and Fig 5, do not exhibit the same dimensions for the new balcony. For the avoidance of doubt it is Fig 5 that accurately shows the new balcony.
6. The LPA's concern is that the balcony is substantially larger and more prominent than the previous landing area and is built of inappropriate material. The difference in size between the two flat balcony areas is set out in Fig 5 and further in the plan supplied by the appellant at appeal showing the old structure in green and the new in red as well as numerous before and after photographs.
7. It is clear from this information that there is minimal difference between the size of the former landing and present balcony. Both were constructed of timber, albeit the former structure was very weathered. At close quarters, from the ginnel off Vicarage Lane, from near neighbours, and from a distant single viewpoint along the backs of the terraced houses looking from Steyning Road it is possible to see the new balcony. But it is screened by the high evergreen hedge on the property's Vicarage Lane boundary and it is not prominent from any main public viewpoint. In any case it is well constructed of hardwood without a staircase, which from the submitted photos looked to be in a rather poor condition.
8. As the appellant points out, there are several balconies and terraces nearby in the Conservation Area. Many of these are much more prominent than the appeal proposal. I do not know when these were constructed and it is possible that they predate the designation of the Conservation Area, did not require permission at the time or were permitted under a different policy framework. Nonetheless, they are part of the Conservation Area's character and so I see no in principle objection to the proposal.
9. For the above reasons I conclude it would not harm the character and appearance of the area. On the contrary, it is an improvement on the previous staircase and landing structure and so I conclude it enhances the character of the Rottingdean Conservation Area and would comply with Policies HE6 and QD14 of the Brighton and Hove Local Plan (LP), which requires such alterations to preserve or enhance such areas and to be well designed. It would also meet the requirements of *Supplementary Planning Documents 12* because the balcony would not be in a prominent location visible from the street.

Living Conditions

10. Anyone standing or sitting on the balcony has a clear view of neighbours' windows and gardens, in particular those of 1 and 2 Vicarage Lane, the cottage behind No 1 and the rear gardens of 110 and 112 High Street. There is no doubt that such overlooking affects the privacy of these neighbours.
11. However, such overlooking is no worse than that occasioned by the former staircase and landing. Since this gave access, albeit as a fire escape, to the former first floor flat it is possible that it was used more than the present balcony is or is likely to be since access is now solely gained off the back bedroom of the house.
12. The LPA envisage that its larger size could result in the dwelling's occupants sitting on the balcony which could give rise to noise nuisance to neighbours. Whilst this is possible the size of the balcony is only marginally larger than that

of the previous staircase landing, which occupants could also have sat out on, and so any such activity is unlikely to give rise to any more noise nuisance than the previous structure. The fact that the building is now a single house in my opinion will also decrease this likelihood because the occupants could use their rear garden for, for example, sitting out on summer evenings as an alternative to the balcony.

13. For these reasons I conclude that the new balcony is unlikely to significantly harm the living conditions of neighbours with particular reference to privacy and noise, when compared with the authorised previous structure. LP Policy QD27 states that permission will not be granted where it would cause material nuisance and loss of amenity to existing residents. For the above reasons the proposal would comply with this Policy.

Conclusion

14. The Council has not suggested any conditions and I do not consider any to be necessary given that the proposal is retrospective and I have determined it is satisfactory and complies with development plan policy.
15. For the reasons given above I conclude that the appeal should be allowed.

Nick Fagan

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: 11 May 2017

Appeal Ref: **APP/Q1445/W/16/3161249** **106 Greenways, Brighton BN2 7BL**

- 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 Ron Lewis against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01693, dated 12 May 2016, was refused by notice dated 28 September 2016.
 - The development proposed is a bungalow with parking.
-

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. The appeal property has a less conventional arrangement to that of surrounding properties in that its associated garden is to the side of the bungalow positioned alongside the junction of Greenways and Ainsworth Avenue. Nonetheless, this bungalow with its garden to the side maintains the rhythm of plot sizes of the properties in the area.
 4. The garden area narrows toward the junction. The proposed dwelling would be constructed very close to the site boundary at Ainsworth Avenue and would be positioned forward of the front building line of the existing dwelling, No 106 Greenways, and those dwellings south of the appeal site fronting Greenways. This would not reflect the established set back from the highway of the properties in the area. The proposed dwelling would therefore be out of character with the prevailing pattern of development in the area and the setback of dwellings from the highways.
-

5. Furthermore, the proposed dwelling would be constructed in such close proximity to the boundaries of the site that it would appear cramped within this constrained site. In addition, the small gardens for both the existing and proposed dwelling would not be characteristic of the area. The proposed development would therefore represent an overdevelopment of the site and would be harmful to the character and appearance of both the appeal site and the streetscene. The appeal site is located in a particularly prominent position at the highway junction and the visual harm of the proposed development would be readily apparent in views from the surrounding area and to adjoining occupiers.
6. I acknowledge that the development along Greenways is varied and to this part of Greenways the bungalows are positioned close to each other. In addition, the design of the proposed bungalow would be similar to that of the present dwelling at the site. However, these matters do not outweigh or overcome the harm that I have identified above.
7. For those reasons set out above the proposed development would be harmful to the character and appearance of the area, and would be contrary to Policies CP12 and CP14 of the Brighton & Hove City Plan Part One, which seek residential development to be appropriate to the character of the neighbourhood, amongst other matters. The proposal would also conflict with the aims of paragraphs 17, 53, 56 and 58 of the National Planning Policy Framework (the Framework) that aims to ensure development responds to local character and resists inappropriate development of residential gardens where it would cause harm to the local area.
8. Whilst the proposed development is opposite the open land of the South Downs National Park it does not lie within it and I consider the proposal to be clearly visually related to the existing residential development. As such, I do not consider the proposal would significantly impact upon the setting of the National Park.

The living conditions of existing and future occupiers

9. The proposed dwelling would be in extremely close proximity to the side elevation of the existing dwelling which has two windows that provide outlook toward the side garden. I observed that a room to the front of the property has dual aspect with both front and side windows. Although the proposed dwelling would be constructed close to the side window of this existing habitable room, the large front window would ensure adequate light and outlook to this room.
10. The appellant indicates that the second window in the side elevation serves a third bedroom. This window is the only source of outlook and light for this room. The proposed dwelling in close proximity to this existing room would significantly reduce light to, and outlook from, this habitable accommodation. Although a bedroom, this is a room in which the occupiers could spend a reasonable amount of their time. The proposed development in such close proximity to this habitable room would be harmful to the living conditions of the existing occupiers.
11. The main garden area relating to the proposed dwelling would be to the front and side and be of a modest size. Although the appeal site is located in a visually prominent position at the highway junction, the existing side garden is

enclosed by an established wall topped by fencing. This would ensure privacy of this garden area in the same way as it does for the existing side garden. I therefore consider that the proposed development would provide an outdoor amenity space with an appropriate degree of privacy for the future occupiers of the proposed dwelling.

12. The existing property, as a result of the sub-division of the site, would have a smaller garden to the rear. The existing side garden remains important for use by the occupants of this dwelling as an outdoor amenity space. Such space would normally be used by occupants for sitting out, drying clothes, general outdoor recreation, and so on. The sub-division of the site along with the loss of the existing side garden area and retention of a small garden area would not provide adequate outdoor space for the occupiers of the existing dwelling.
13. Whilst I have found in favour of the appellant in terms of the effect on the living conditions of future occupiers, this does not overcome the harm identified to the living conditions of existing occupiers. For the above reasons the proposed development would be contrary to Policy QD27 of the Brighton & Hove Local Plan. This policy seeks 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 existing occupiers of land and buildings.

Other matters

14. I note that the appeal site has been subject to a previous planning application (LPA ref BH2004/03357/OA) and subsequent dismissed appeal. Since then, the Framework has come into place. The Framework requires decisions to be made with regard to the presumption in favour of sustainable development. 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 existing 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, this does not outweigh the environmental harm that I have identified above. Furthermore, the visual harm and the harm to living conditions of occupiers 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.

Conclusions

16. Having regard to the above findings and all other matters raised, including that of the size of the appeal site, the appeal should be dismissed.

Nicola Davies

INSPECTOR

Appeal Decision

Site visit made on 18 April 2017

by **Nicola Davies BA DipTP MRTPI**

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

Decision date: 3 May 2017

Appeal Ref: APP/Q1445/D/17/3172087 4A Mansfield Road, Hove BN3 5NN

- 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 Thomas Asher against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05487, dated 19 April 2016, was refused by notice dated 2 March 2017.
 - The development proposed is a two storey rear extension including conversion of existing roof.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension including conversion of existing roof at 4A Mansfield Road, Hove BN3 5NN in accordance with the terms of the application, Ref BH2016/05487, dated 2 March 2017, subject to the following conditions: -
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans CH747/004 Revision A, CH747/005 Revision D and CH747/006 Revision A.
 - 3) The materials to be used in the external surfaces of the development hereby permitted shall match those of the existing property.

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. The appeal property relates to a building of markedly different form and design to those predominantly two-storey detached dwelling in the area. The property has been subdivided to create two dwellings, one to the front of the plot with the second behind. The building is of pitched roof design with gables running front to rear with a central ridge running parallel to the highway. The front gable is higher than the central roof ridge and the part width gable addition to the rear is set below this central ridge.
-

4. The proposal to the rear would extend to the full width of the property and increase the height above the central ridge. The proposed height of the two rear roof gables would not, in my opinion, be appreciably higher than the existing central roof ridge and would be of similar height to that of the front gable projection. The small area of flat roof would be positioned between the pitched roofs and would not be overly visible for this reason. Whilst the enlargements to the rear of the dwelling would be visible from Mansfield Road and the occupiers of some surrounding dwellings, it would not be extensively apparent in such views. Although the form and design of the enlarged dwelling would change the appearance of the dwelling and be different to that of other properties in the area, I see no reason why the size and design of the proposed extension at the rear and the modest increase in size and height would not appear acceptable in the context of this specific property and this location.
5. The proposed gable roof behind the front entrance porch would be set well back from Mansfield Road and would be positioned behind the existing garage. Although it would be of similar height to that of the existing front gable projection and would change the shape of the roof, I do not consider the pitched roof would be overly prominent as a result of the modest increase in height. Whilst the change in roof shape would again be visible in views from Mansfield Road and from adjoining properties, I see no reason why the size and design of the proposed extension and the modest increase in size and height would not appear acceptable in the context of this property and this location. Given its recessed positioning in relation to the highway I cannot conclude that it would be prominent and harmful in public views from Mansfield Road.
6. In addition to the above, tile hanging is proposed upon the gable ends of the pitched roofs. I observed the existing dormer roof extension at the property to be tile hung. Furthermore, tile hanging has been used in the front elevations of neighbouring dwellings and garages close by. I therefore cannot conclude that the use of tile hanging would be out of keeping in this location.
7. Overall, I conclude that the proposed development would not harm the character and appearance of the host building and the area. For the reasons given above, the proposal would not materially conflict with Policy QD14 of the Brighton & Hove Local Plan which requires extensions and alterations to existing buildings to be well designed, sited and detailed in relation to the property to be extended and to the surrounding area.

Conditions

8. 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. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. A condition relating to matching materials is appropriate in the interests of the character and appearance of the area.

Conclusions

9. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Nicola Davies

INSPECTOR

Appeal Decision

Site visit made on 18 April 2017

by Joanna Reid BA(Hons) BArch(Hons) RIBA

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

Decision date: 11 May 2017

Appeal Ref: APP/Q1445/W/16/3165722

Garages at Rear 5 Glebe Villas, Hove, Brighton & Hove BN3 5SL

- 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 Gordon White against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04624, dated 22 December 2015, was refused by notice dated 23 June 2016.
 - The development proposed is conversion of existing double garage at land to the rear of 5 Glebe Villas, Hove, BN3 5SL, into a dwelling.
-

Decision

1. The appeal is dismissed.

Main issues

2. The main issues in this appeal are the effect that the proposal would have on:
 - the character and appearance of the surrounding area,
 - the living conditions of the occupiers of 3, 5 and 7 Glebe Villas, with regard to outlook, overshadowing and noise and disturbance, and
 - the living conditions of the future occupiers of the proposed development, with regard to internal space.

Reasons

Character and appearance

3. The appeal site is within a mostly residential suburban area. Most nearby mainly semi-detached and detached dwellings are set back a little from Glebe Villas and they respect a broadly consistent front building line. At the back their deeper back gardens meet the ends of similarly deep back gardens of dwellings in the roughly parallel Portland Villas.
4. The site includes a drive from Glebe Villas and a mainly flat-roofed single-storey domestic double garage. The garage is sited beyond the end of the back garden of Flat 2 at 5 Glebe Villas and it is very close to the common side boundaries at the ends of the back gardens of 3 and 7 Glebe Villas and the common boundaries at the ends of the gardens at 6 and 10 Portland Villas.
5. Due to the depth of the back gardens, the mature vegetation in many, and the modest scale of most sheds, outbuildings, fences and walls in them, the spaciousness and greenery, which can be seen in the gaps between dwellings

in Glebe Villas, contribute positively to the character and appearance of the area. Because of its fairly low-key scale and form, the existing garage is subservient to the former villa at 5 Glebe Villas, which now includes a number of flats, and it barely intrudes into the important verdant spaciousness over the back gardens of the buildings in Glebe and Portland Villas.

6. The footprint of the dwelling would be only a little larger than that of the garage, but the gable-roofed first floor extension would substantially increase its bulk and height. Thus, the dwelling would look unacceptably dominant and out of place in the back gardens. Because the dwelling would be much taller and more bulky than the garage, it would look incongruous in views from the street through the gap between 3 and 5 Glebe Villas. Its built-up character would harmfully erode the important leafy appearance and spacious character that contributes in an important way to the sense of place. As the dwelling would be poorly related to the street, and its squeezed-in siting behind the frontage buildings in Glebe Villas would unacceptably disrupt the consistent pattern of development, it would be harmfully at odds with local character.
7. Therefore, I consider that the proposal would harm the character and appearance of the surrounding area. It would be contrary to Policy CP12 of the *Brighton & Hove City Plan Part One* (CP) which seeks respect for the character and urban grain of the city's identified neighbourhoods and the *National Planning Policy Framework* (Framework) which aims for proposals to take account of the character of different areas.

Nearby occupiers' living conditions

8. The dwelling would probably be occupied by one or 2 people. Although it would be in a place where there had not been a dwelling before, the comings and goings of the future occupiers and their visitors within this mainly residential area would not be likely to cause unacceptable noise and disturbance that would harm the nearby occupiers' living conditions. Also, having regard to its scale and form, orientation and relationship to the nearby dwellings and back gardens, the proposal would not cause overshadowing that would harm the neighbouring occupiers' living conditions, in their homes or in their gardens.
9. However, due to its scale and form, and its siting in relation to the living room and back garden of Flat 2 at 5 Glebe Villas, the proposal would have an unacceptably overbearing and oppressive impact on the outlook from the occupiers of Flat 2's home and garden. Due to its scale and siting, very close to the common boundaries, the proposal would also have a harmfully intrusive and oppressive effect on the outlook of the occupiers of the back gardens of 3 and 7 Glebe Villas.
10. I consider that the proposal would harm the living conditions of the occupiers of 3, 5 and 7 Glebe Villas, with regard to outlook. It would be contrary to Policy QD27 of the *Brighton & Hove Local Plan 2005* (LP) which aims to not permit development where it would cause material loss of amenity to adjacent occupiers, and the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Future occupiers' living conditions

11. The ground floor of the dwelling would provide reasonable living spaces, including living and kitchen areas and a bathroom. The outlook from the first

floor through the roof lights could also be acceptable for a bedroom, although there would be almost no views below the horizontal plane due to their roughly eye level sills. However, there would also be substantial areas with reduced headroom under the sloping skelings of the pitched roof space, so there would only be a narrow full height central space in the bedroom where the occupiers might not need to stoop. Taken together, the modest area of full height floor space and restricted outlook in the only bedroom would provide cramped and oppressive living conditions for the future occupiers.

12. Thus, I consider that the proposal would harm the future occupiers' living conditions, with regard to internal space. It would be contrary to LP Policy QD27 which aims to not permit development where it would cause material loss of amenity to proposed occupiers, and the Framework.

Other matters

13. CP Policy CP14 was not a concern of the Council in its reasons for refusal, and I see no reason to disagree. I have had regard to my colleague's appeal decision ref APP/Q1445/W/15/3017300 for a development at the back of 36 Walsingham Road, Hove. However, that site is some distance from the appeal site where the character differs. Also, amongst other things, the proposal before my colleague was for a single-storey dwelling that would be sited well away from the boundary at the back of its site. So, it provides little support for this harmful scheme, which has been dealt with on its merits and in accordance with its site specific circumstances and relevant local and national policy.

Conclusion

14. For the reasons given above and having regard to all other matters raised, the appeal fails.

Joanna Reid

INSPECTOR

Appeal Decision

Site visit made on 20 April 2017

by **C J Leigh BSc(Hons) MPhil MRTPI**

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

Decision date: 12 May 2017

Appeal Ref: APP/Q1445/D/17/3168373
63 Berriedale Avenue, Hove, BN3 4JG

- 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 Laux against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/00582, dated 10 February 2016, was refused by notice dated 1 December 2016.
 - The development proposed is the erection of a single storey side extension.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposed development on the living conditions of adjoining occupiers.

Reasons

3. The appeal property is one half of a pair of semi-detached houses, which are both L-shaped in plan. There is a drop in ground levels at the rear of the properties, with raised decking immediately adjoining the houses. The proposed extension would fill in an area at the rear of No. 63 adjoining the two storey 'outrigger', and so also adjoin the rear amenity area of No. 61 and be close to the living room and kitchen windows of that property.
 4. I viewed the location of the proposed rear extension from No. 61 at my site visit and I share the concerns of the local planning authority and the neighbours as to the effect on their outlook and levels of light. The extension would be 2.8m higher than the decking/amenity area to No. 61, and 3.6m above garden level, and it would be 4m deep. This would create a bulky addition that would have a very dominant effect when seen from both the living room and kitchen windows to No. 61, seriously reducing the quality of the outlook from those rooms, and likely levels of light. The depth and height of the rear extension would also appear overbearing to the amenity space at the neighbour.
 5. The Council's Supplementary Planning Document (SPD): Design Guide for Extensions and Alterations (2013) sets out general principles for design, which includes that *'particular consideration will be had to the impact of an extension*
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on light and outlook to the principal windows within neighbouring buildings, and to the private amenity areas directly to the rear of neighbouring properties' (section 2.1). This reflects Policies QD14 and QD27 of the Brighton & Hove Local Plan, which state planning permission will not be granted for development that causes loss of amenity to neighbouring properties. Further specific advice is given in the SPD in relation to 'infill extensions', and it is evident to me from my site visit that the proposed extension would not satisfy the principles set out for such development, due to the overbearing impact and excessive height of the extension. The appellants have referred me to the '45 degree rule' at Appendix B of the SPD, but consideration of that matter does not outweigh what in my judgement is a clear conflict with the general principles of the SPD, and with the policies of the Local Plan, arising from the depth and height of the proposed extension.

6. The proposals would therefore be contrary to the Local Plan and the SPD. Whilst the design of the extension would not be intrusive to the character of the wider area, and whilst I also acknowledge there would be some screening from the existing first floor rear balcony, those matters would not outweigh this conflict. The appeal is dismissed accordingly.

C J Leigh
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: 25th April 2017

Appeal Ref: APP/Q1445/W/17/3167367 122 The Avenue, Brighton BN2 4FD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Rivers Birtwell against Brighton & Hove City Council.
 - The application Ref BH2016/05918, is dated 1 November 2016.
 - The development proposed is a change of use of existing C4 small house in multiple occupation to Sui Generis large house in multiple occupation.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of existing C4 house in multiple occupation to Sui Generis large house in multiple occupation at 122 The Avenue, Brighton BN2 4FD, in accordance with the application Ref: BH2016/05918, dated 1 November 2016, subject to the attached schedule of conditions.

Preliminary Matters

2. No 122 The Avenue is a semi-detached, two-storey property located within a well-established residential estate. Plans of the "existing" layout of the building showed there to be a kitchen, a living room and two bedrooms on the ground floor and three bedrooms, a bathroom and separate WC on the first floor.
 3. There is no dispute between the parties that the property has been in use as a small House in Multiple Occupation (HMO) (Class C4). Although the number of occupants in a C4 dwelling could be as many as six, the evidence suggested that it had previously been occupied by four unrelated tenants. This use was established prior to the introduction of an Article 4 Direction in 2013, which removed the permitted development right for a change of use from a single dwelling (Class C3) to an HMO (Class C4) in certain parts of the city.
 4. A Certificate of Lawful Development was issued on 11 August 2016 in relation to a loft conversion and rear extension, as these were assessed to be permitted development in connection with the use of the property as a dwellinghouse, Ref: BH2016/02354. These works have been implemented. The proposal seeks approval to further internal alterations to permit the house to be occupied by up to nine individuals.
 5. At the time of my site visit the house had not only been enlarged but also extensively refurbished. The ground floor comprised a kitchen/dining/living area, one bedroom and a shower room. The other room on the ground floor
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was being used as a shared living room, but the proposal would sub-divide it to provide two additional bedrooms. The first floor had three bedrooms and a shower room. The proposal would sub-divide the largest of the bedrooms into two separate rooms. The loft conversion has added two further bedrooms and a third shower room to the property.

Main Issues

6. If the Council had determined the application, it indicated that it would have done so for three reasons. These related to the concentration of HMOs in the area, the standard of residential accommodation and the design of the dormer window. I therefore consider the main issues in the appeal are:
 - a) the effect of the proposed change of use on the concentration of Houses in Multiple Occupation (HMOs) in the surrounding area and the living conditions of occupants of neighbouring properties;
 - b) whether or not the proposal would provide satisfactory living conditions for future occupants;
 - c) the effect of the dormer window on the character and appearance of the host property and the surrounding area.

Reasons

Concentration of HMOs and living conditions of neighbours

7. Policy CP21 of the Brighton & Hove City Plan Part One (the City Plan) seeks to actively manage the location of new HMOs as part of its approach to providing for the demand for student accommodation whilst also ensuring 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.
8. In this case just over 47% of properties within 50m of the appeal site are already HMOs. This figure has not been disputed. It is therefore in an area any new HMO would be resisted as it would be in direct conflict with Policy CP21. However, No 122 has already been used as an HMO; increasing its size and the number of occupants would not change the proportion of HMOs in the vicinity. Neither would the proposed change of use result in the loss of a family home, nor would it alter the range of housing types in the area. I therefore cannot agree with the Council's contention that there can be an objection in principle to the change of use from a small HMO (C4) to a larger one (Sui Generis).
9. The proposal would increase the number of occupants in the house from six to nine. The Council is concerned that incremental intensification of use arising from the change of a small HMO to a large one will add to the cumulative harm associated with the high proportion of HMOs already in the area. In this regard, I have been referred to various appeal decisions¹ in other parts of Brighton in which Inspectors reached different conclusions about the additional noise and disturbance that can be caused and its effects. However, in each of those cases the Inspectors assessed the proposals taking the site specific issues into account as I have done here.

¹ APP/Q1445/W/16/3150798, APP/Q1445/W/15/3139159, APP/Q1445/W/16/3162725, APP/Q1445/W/16/3140843 and APP/Q1445/W/15/3140558

10. Whilst I appreciate the concerns raised by the Council and some local residents relating to noise, refuse and parking, there was no definitive evidence presented with the appeal relating to problems that have been experienced either as a result of this or other HMOs in the vicinity of the appeal site. The site, including the boundary hedges and the building, appear to be well maintained following the completion of the recent building works. The area is not subject to parking controls and at the time of my site visit there was a plentiful supply of on-street parking. The Universities are within easy reach of the appeal site either by walking, cycling or using public transport. As parking at the Universities is strictly controlled, there is nothing to suggest that car ownership amongst students is likely to be high.
11. There would be an increase in the number of comings and goings from a property occupied by nine individuals. However, these cannot be directly compared with the use of No 122 as a family home, as it has not been used as one for several years. Furthermore, there was no substantiated evidence to suggest that its use by between four and six individuals had resulted in unacceptable noise and disturbance for nearby neighbours, including the occupants of the adjoining dwelling at No 124. I am therefore not persuaded that an additional three people in this particular house would result in a significant deterioration in the amenity of the neighbourhood as a whole which would justify withholding planning permission.
12. Taking all these factors into account, I conclude that the development would not result in an over-concentration of HMOs in the area or cause significant harm to the living conditions of occupants of neighbouring properties. It would therefore comply with Policy CP21 of the City Plan and saved Policy QD27 of the Brighton & Hove Local Plan (Local Plan), the latter of which seeks to protect the amenity of neighbours.

Standard of accommodation

13. The house has been recently enlarged and renovated, following the grant of the Certificate of Lawful Development. The rear extension has enabled the creation of a large living/kitchen/dining area, which provides about 30sqm of usable space and appears to be well equipped. Whilst it would feel somewhat cramped if all nine occupants chose to occupy the room at the same time, I consider this to be an unlikely scenario. However, it would provide a flexible space where tenants could cook, eat meals either together or in small groups, whilst also providing a comfortable sitting area in which others could relax.
14. The bedrooms would vary in size, shape and amounts of usable floor space. However, from what I saw of the rooms that are currently occupied, all are well-equipped with a bed, desk and some storage space. All the rooms are light, have a reasonable outlook and enough space in which to work and watch TV. They had clearly been arranged specifically to meet the needs and expectations of students. The bedrooms within the loft conversion are more restricted due to the lack of headroom. However, furniture has been arranged to make best use of the space and provide an adequate area in which to study. It seems to me that the layout of the house as a whole would provide a reasonable balance between individual and communal areas.
15. I therefore conclude that the proposal would provide satisfactory living conditions for future occupants in compliance with saved Policy QD27 of the Local Plan, which seeks to protect residential amenity.

Character and appearance

16. The Council issued a Certificate of Lawful Development for the extension and loft conversion on the basis that it was permitted development under Schedule 2, Part 1 Classes A, B, C and G of the Town and Country Planning (General Permitted Development) (England) Order 2015. The works began after the certificate had been issued, although I have no details of when they were completed. However, there is no evidence to suggest that the alterations to the roof have been done in any way other than in compliance with the approved plans and conditions. The dormer window is therefore a lawful structure. No further alterations to it form part of the proposal before me. Consequently, the proposed change of use would not result in any change to the character and appearance of the host property or the surrounding area.
17. For this reason I conclude that the proposal would not be harmful to the character and appearance of the area. There would therefore be no conflict with saved Policy QD14 of the Local Plan or the guidance set out in the Council's Supplementary Planning Document: *Design Guide for Extensions and Alterations* (SPD12), which seek development that respects its setting.

Conditions

18. In the event that the appeal was allowed the Council has suggested a number of conditions. I have considered these in the light of the tests set out in paragraph 206 of the National Planning Policy Framework and imposed them where I consider them to be necessary and reasonable, incorporating amendments for the sake of clarity and precision.
19. A condition specifying the plans is required in the interests of certainty. However, I have not referred to the other maps, tables or statements included in the Council's list of suggested documents as I do not consider them to be illustrative of the scheme before me. Conditions restricting the number of occupants to nine and ensuring retention of the communal kitchen/living/dining area are necessary to safeguard the living conditions of future tenants.
20. A condition to secure implementation of secure cycle parking is justified in the interests of promoting sustainable travel in the city. However, I have simplified it to require a scheme to be agreed and implemented prior to the increase in the number of occupants from the existing C4 use to the nine associated with the Sui Generis use.
21. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. However, in this case in order to protect the character and appearance of the area and the living conditions of neighbours, I am satisfied that removal of permitted development rights is justified.

Conclusion

22. For the reasons set out above, and having regard to all other relevant matters raised, I conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1468/E.01 and 1468/SG.01
- 2) The development hereby permitted shall not be occupied by more than nine persons.
- 3) The kitchen/dining/living area detailed on drawing No 1468/SG.01 shall be retained as communal space at all times and shall not be used for any other purposes.
- 4) The Sui Generis HMO shall not be occupied until secure, covered cycle storage facilities have been installed in accordance with details which have first been approved by the local planning authority. The cycle storage facilities shall be retained thereafter at all times for use by the occupants of, and visitors to, No 122.
- 5) 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 dwelling house as provided for within Schedule 2, Part 1 Classes A-E shall be carried out without planning permission obtained from the local planning authority.

End of Schedule of conditions

Appeal Decision

Site visit made on 23 March 2017

by **D J Board BSc (Hons) MA MRTPI**

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

Decision date: 28 April 2017

Appeal Ref: APP/Q1445/W/16/3164482
126 Newick Road, Brighton, BN1 9JG

- 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 Barbara Smith against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/02887, dated 30 July 2016, was refused by notice dated 4 November 2016.
 - The development proposed is C3-C4.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the change to a House in Multiple Occupation (HMO) on the character of the surrounding community.

Reasons

3. Policy CP21 of the Brighton and Hove City Plan (CP) sets out that a change of use to an HMO would not be permitted where more than 10% of dwellings within a 50m radius of any application site are already in such use. This is in order to ensure that a suitable range of housing types remains available in the area to maintain mixed and balanced communities. This is reinforced by paragraph 50 of the National Planning Policy Framework (the Framework) which promotes a mix of housing types to suit local demand.
4. The change of use would normally be permitted development. However, the Council made an Article 4 direction to remove that right. The reason for this was the Council's concerns regarding retaining a suitable mix of housing types and retaining family homes.
5. In this case the Council has applied CP policy CP21. In particular it has identified from mapping that within a 50m radius of the appeal premises that 15% of the properties are HMOs. The appellant has queried the policy and submits that it is both restrictive and arbitrary. However, these guidelines are within an adopted policy that has been consulted on and examined. Therefore they should be given significant weight and used in deciding if permission should be granted. In addition I agree with the view taken by my colleagues in other decisions¹ that the line has to be drawn somewhere. In doing so it may

¹ APP/Q1445/C/16/3146395

always appear to be arbitrary where it is set but that does not negate the need to set such a level for decision making.

6. The submission and the application form identify that the appeal property is currently a single family dwelling (C3). The radius around the appeal site already exceeds the 10% set out in CP21. If allowed the appeal scheme would add to the amount of dwellings over that limit in this area. I therefore consider that to allow this appeal would have a harmful effect on and undermine the Council's aim of maintaining a balanced supply of housing types and supply of family dwellings and accommodation to rent. It would increase further the identified imbalance that currently exists in the mix of housing types available in this part of Brighton.
7. I appreciate that the dwelling is located in an area that is generally well located for housing and that the appellant could provide accommodation to a suitable standard that would meet a need and that HMOs do not solely provide student accommodation. In addition I understand that there have not been any neighbour objections to the proposal. However, none of these matters alters or outweighs the clear conflict with the development plan to which I attach significant weight.

Other matters

8. The Council's decision notice focuses on the principle of the use. Its statement and report refer to the effects of the change of use, should it be allowed and the resultant conflict with policy QD27 of the Brighton and Hove Local Plan. This policy sets out that planning permission will not be granted for development that would cause a material nuisance and loss of amenity to adjacent occupiers and existing residents. The appellant refers to a nearby appeal decision on this matter.² However, this decision appears to refer to the change of a small HMO to a larger HMO. By contrast the appeal scheme seeks to change an existing single dwelling into an HMO. Further when that appeal was decided policy CP21 had not been found sound and adopted. As such they are not directly comparable. Therefore I cannot agree with the appellant that the reasoning in that case should apply to this proposal.
9. The appellant has raised a number of other appeal decisions³ and applications⁴. I do not have the full details of all of these schemes. However, some of these appear to relate to different developments and some are in different districts or boroughs. As such they are not directly comparable to the scheme before me. I have considered the proposal before me on its merits. Therefore these examples do not alter my overall conclusions on the case before me.

Conclusion

10. Therefore for the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR

² APP/Q1445/A/14/2214205

³ APP/Z1775/A/11/2164766; APP/Z5060/A/11/2167184; APP/D1780/A/11/2143903; Chichester Girls High School Decision page 6 Grounds of Appeal

⁴ LPA ref BH2013/01141

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: 26th April 2017

Appeal Ref: APP/Q1445/W/16/3165865
107 Boundary Road, Hove BN3 7GB

- 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 Coleman of Castlemist Finance Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/02047, dated 2 June 2016, was refused by notice dated 2 November 2016.
 - The development proposed is demolition of existing house and erection of building to form 7 flats with associated parking.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing house and erection of building to form 7 flats with associated parking at 107 Boundary Road, Hove BN3 7GB in accordance with the terms of the application, Ref BH2016/02047, dated 2 June 2016, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by Brighton & Hove City Council against Mr Coleman of Castlemist Finance Ltd. That application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the name of the Appellant's company from the appellant's appeal form as there appears to be a spelling error on the planning application form. However, I have taken the appellant's name from the planning application form, although I note an initial has been provided on the appellant's appeal form.

Main Issues

4. Whether the financial contributions sought in respect of affordable housing and sustainable transport improvements are necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development.

Reasons

5. A completed section 106 agreement, dated 3 March 2017, is before me. It provides for off-site affordable housing and improved sustainable transport
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infrastructure in the form of a pedestrian route in the vicinity of the proposed development. I will deal with each contribution in turn.

Affordable housing

6. The S106 agreement makes provision for an affordable housing contribution, although for a lesser sum than originally sought by the Council following a financial viability assessment having been undertaken. Policy CP20 of the Brighton and Hove City Plan Part One requires affordable housing contributions from all types of residential development where the net gain is over 5 units, as is the case here. A sliding scale is applied which requires a contribution of 20% to be sought on sites between 5 to 9 units.
7. The Appellant argues, in light of the Court of Appeal's decision in May 2016 relating to the Written Ministerial Statement (WMS) of 28 November 2014, that an affordable housing contribution should not be sought by the Council. Government policy as set out in the WMS indicates that for 10 units or less which have a maximum combined gross floor space of no more than 1000 m² no affordable housing or tariff style contributions should be sought. The reinstatement of the WMS post-dates the adoption of Policy CP20 and the appellant contends that the WMS outweighs this adopted policy. There is conflict between the national threshold relating to the provision of affordable housing in the WMS and the local thresholds set out in Policy CP20.
8. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Policy CP20 forms part of the development plan, whilst the WMS and Planning Practice Guidance (PPG) are a material consideration. However, as the WMS and PPG came into effect after the adoption of Policy CP20, it represents the latest expression of national policy and carries significant weight in the balancing exercise.
9. The Council refer me to their 'Objectively Assessed Needs for Housing in Brighton & Hove' and the identified net need for additional affordable housing of 810 units per annum over the plan period to 2030. The Council also refers to its Housing Register that indicates a significant need for affordable housing in the city, of which a high proportion are in a priority housing need band. In addition, the Council indicate that housing prices in the city are higher than other parts of the country. I acknowledge also that significant housing land supply constraints limit the outward expansion of the city and that there is a limited supply of alternative developable sites within the urban area. Furthermore, I note the annual residential monitoring indicates that small development sites (less than 10 units) contribute more than 50% of overall housing delivery.
10. The Appellant has not contested any of these details and has accepted the Council has a five year housing land supply in place. Policy CP20 was drawn up and adopted in the light of strong evidence of the need for affordable housing in Brighton & Hove. The case for affordable housing contributions on sites between 5 and 9 houses in Brighton and Hove is therefore strong, and Policy CP20, as part of the recently adopted City Plan Part One, should therefore also be afforded substantial weight.
11. Policy CP20 allows for site specific circumstances to be taken into consideration and the costs relating to the development and the financial

viability of developing the site to be considered. Subsequent to the Council reaching their decision the contributions sought by the Council have been subject to a viability assessment in which the Council has accepted a reduced contribution figure. The original amount sought of £164,000 has been established to be a disproportionate cost to develop the site in this case and would render the scheme unviable. A substantially reduced figure of £4561 toward off-site affordable housing has been established and the proposed scheme would be viable with this contribution being secured.

12. On the basis of the evidence before me, I consider that the WMS and PPG do not outweigh the development plan in this instance. Consequently, a financial contribution towards affordable housing is required. I have had regard to the fact the appellant has entered into a S106 agreement to secure payment of this reduced contribution and has not contended that the development would be unviable otherwise. I conclude that the contribution is necessary to make the development acceptable, is directly related to the development and is fairly and reasonable related in scale and kind to the development. It would satisfy the tests of Regulation 122 of the Community Infrastructure Regulations 2010 and paragraph 204 of the National Planning Policy Framework (the Framework).
13. The Council have drawn my attention to two appeal decisions in Rottingdean and Ovingdean, and seven appeal decisions in other parts of the country where development plan policy for affordable housing was held to outweigh the WMS/PPG. On the other hand, the appellant has highlighted an appeal decision at Hove Business Centre which prefers the WMS/PPG over local policy. However, on the basis of the evidence in front of me it appears to me that there is a stronger balance in favour of policies in the development plan within the decisions drawn to my attention. Furthermore, there is strong evidence of the need for affordable housing in Brighton & Hove and for this reason, I am satisfied that a need arises from the development for the revised contribution sought by the Council.

Sustainable transport improvements

14. The S106 agreement makes provision for a sustainable transport infrastructure contribution. This is required to improve the pedestrian route between the appeal site and Sainsbury's superstore, Benfield Primary School, public transport, local library, medical facilities and parks including, but not limited to, an uncontrolled pedestrian crossing with dropped kerbs and tactile paving across the Boundary Road traffic signals located at its junction with Old Shoreham Road.
15. The proposed development would create six additional households and the above local services and facilities are within close walking distance of the appeal site. The future occupiers would likely use this pedestrian route thus placing greater pressure upon it and exacerbating the problems of the existing infrastructure. The contribution would help improve this infrastructure. This infrastructure and contributions toward it is supported by Policies CP7 and CP9 of the City Plan Part One that seek to improve accessibility and safety and ensure that the necessary physical infrastructure is appropriately provided in time to serve the development. I consider the contribution to be necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and

kind and would not affect the viability of the scheme and the S106 Legal Agreement contributes to the reason for granting permission.

16. The appellant does not contest this contribution request and has supported its provision by providing a draft Unilateral Undertaking at application stage to secure this contribution. The appellant has also indicated acceptance of its necessity and that it relates to the proposed scheme, as well as considering it to be reasonable.
17. Overall, I conclude that the proposed development would be in line with Policies CP7 and CP9 of the City Plan Part One, which seek through the provision of infrastructure contributions to provide measures that will help to manage and improve mobility and lead to a transfer of people onto sustainable forms of transport to reduce the impact of traffic and congestion and increase physical activity. The proposed development would also be in line with the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 and paragraph 204 of the Framework.

Other Matters

18. The proposal raises a number of other issues which have been carefully considered by the Council, both in the past and as part of this application. Local concern is expressed about the proposed development being an overdevelopment of the appeal site, being too large and of a design out of keeping with the area. The proposed scheme is very similar to a proposal that was allowed at appeal in 2009 (planning ref BH2008/03442 & appeal ref APP/Q1445/A/09/2101398). I consider the size, design, and site coverage of the proposed development to be acceptable. Indeed the Inspector, when considering the earlier proposal, commented that "the block of flats would be of greater size than the existing dwelling and of a more contemporary design, with contrasting materials and finishes. However, this plot is wider than its neighbours; the proposed building would be of a similar scale, with pitched roofs, and would not be significantly higher than its neighbours. There would be sufficient space on either side for it not to appear cramped". Given the similarity of the scheme before me to that of this previous proposal, I have no reason to take a contrary view to that of the previous Inspector.
19. With regard to the future occupiers' living environments I consider the flat and room sizes to be acceptable, as well as outlook and light to the basement flats. In addition, the previous Inspector concluded that the proposed development, incorporating private balconies or courtyard areas, was acceptable. Although the second floor flat would have only a Juliette balcony all occupiers would have access to a communal garden at the rear. The previous Inspector also found these matters to be acceptable.
20. Concern is also raised to potential overlooking resulting in loss of privacy to the adjoining occupiers. The balconies and windows in the rear elevation would increase overlooking of adjoining occupiers properties but this would not, in my opinion, be to the extent that would be harmful to the living conditions of these occupiers and would be of a degree normally found to exist in residential areas such as this.
21. Seven parking spaces are proposed to the rear of the development in a similar layout to that recently proposed in planning ref BH2015/00233 (appeal ref APP/Q1445/W/15/3140296). In that case a Noise Impact report was

submitted by the applicant to inform this application. The Inspector found the acoustic report to be robust and concluded car park noise to be within acceptable levels. Given the similarity of the scheme before me to that of this previous proposal I have no reason to take a different view. Further to this, I accept that some noise and disturbance may be experienced during demolition and construction but this would likely take place over a short period of time and any disturbance to neighbouring occupiers would be limited. Similarly, the noise generated by the occupiers of seven flats would not be out of keeping with that which would take place in residential areas.

22. In reaching my decision, I have also considered the concerns raised in respect of vehicle movements and highway safety in close proximity to the highway junction and railway crossing. I note that the Council did not raise highway safety as an issue, and I do not consider highway safety would be compromised or the more intensive occupation of the appeal site would lead to problems occurring.
23. Concern is also raised about the potential for the proposed semi-basement to undermine the foundations of adjoining properties. Matters relating to the structural impact of adjoining dwellings would be subject to Building Regulations.
24. There would be space to the rear of the building to provide cycle and refuse/recyclable storage provision. I have no reason before me that would suggest that either facility could not be satisfactorily accommodated at the appeal site. These could, in my opinion, be adequately dealt with by appropriate planning condition, as have been set out in the accompanying schedule.
25. I have no reason to conclude that the resulting garden area at the appeal site would negatively impact wildlife.
26. Some residents suggest that it is a shame to lose the existing house and that an alternative scheme of three flats and/or a car free development would be a more suitable development for the site. However, I am required to consider the proposed development that is before me. The proposal can and should be considered on its own merits.
27. None of these matters alter my conclusion that the appeal should be allowed.

Conditions

28. I have considered the planning conditions suggested by the Council in light of paragraph 206 of the Framework and the advice in the PPG. In addition to the standard time limit conditions and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans. The appellant has indicated that such conditions would be acceptable to him.
29. A condition relating to materials is appropriate in the interests of the character and appearance of the area, as is a condition relating to hard and soft landscaping and boundary treatments which can ensure appropriate surfacing materials are utilised. The existing Beech tree is an attractive feature at the site frontage and its protection by means of a construction specification/method statement and an arboricultural method statement should be secured for similar reasons.

30. A condition relating to parking provision is necessary to prevent inconvenience to road users and to ensure highway safety. A cycle storage facility condition would encourage sustainable travel as an alternative to private vehicle. A refuse and recycling storage facilities condition is necessary to ensure the protection of the character and appearance of the area and the living conditions of adjoining occupiers.
31. The appellant has indicated that conditions relating to the materials as shown on the approved plans and parking provision would be acceptable to him but I consider, in the case of the materials condition, that Council approval of the materials is necessary to ensure the character and appearance of the area is safeguarded.
32. I consider a condition limiting cables, wires, aerials, pipework, meter boxes or flues to the front elevation to be unnecessary as there is no special justification in this area to control these and there is no evidence that such installations would be visually harmful. There is no evidence that the appeal site would be contaminated and other environmental legislation would deal with this in the event that contamination may be found to be present. Similarly, energy and waste efficiency would be a matter for Building Regulations. I also consider a condition relating to access signage to give priority to vehicles entering the site to be unnecessary as there is no evidence that would indicate the use of access would be unsafe or that this is essential to ensure highway safety.

Conclusions

33. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE

CONDITONS

- 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 approved plans listed 783 Block Plan Proposed, 788-1, 788-2, 788-3, 788-4, 788-5, 788-6, 788-7 and 788-8.
- 3) No development above ground floor slab level of any part of the development hereby permitted shall take place until the materials to be used in the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to first occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
 - a. details of all hard 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.All hard landscaping and means of enclosure shall be completed in accordance with the approved details 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.
- 5) 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 a detailed Construction Specification/Method Statement for the driveway in the vicinity of the Beech tree to the front of the existing property has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in accordance with the approved Construction Specification /Method Statement.
- 6) No development or other operations shall commence on site in connection with the development hereby approved until a detailed Arboricultural Method Statement regarding protection and pruning of the Beech tree has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in accordance with the approved Arboricultural Method Statement.

- 7) The vehicle parking area shown on the approved plans shall be laid out for parking and thereafter shall be kept available for parking provision for the lifetime of the development.
- 8) Prior to first occupation of the development hereby permitted, details of the secure cycle parking facility shall be submitted to and approved in writing by the Local Planning Authority. The secure cycle parking facility shall be implemented in accordance with the approved details and made available for use prior to the first occupation of the development and shall thereafter be kept available for such use for the lifetime of the development.
- 9) Prior to first occupation of the development hereby permitted, details of the refuse and recycling storage facility shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage facility shall be implemented in accordance with the approved details and made available for use prior to the first occupation of the development and shall thereafter be kept available for such use for the lifetime of the development.

Appeal Decision

Site visit made on 2 May 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 9 May 2017

Appeal Ref: APP/Q1445/W/17/3167686
43 Hallyburton Road, Hove BN3 7GU

- 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 Ben Yates against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05075, dated 22 August 2016, was refused by notice dated 30 September 2016.
 - The development proposed is new 3 bedroom house on land next to 43 Hallyburton Road with front and rear amenity space.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed dwelling on the character and appearance of the existing building and surrounding area.

Reasons

3. Hallyburton Road predominantly comprises a mix of semi-detached and terraced properties of two storeys, the terraces being mainly of 3-4 properties. This mix of development provides a varied character to the area, with most houses, apart from the end of terrace property neighbouring the appeal site, having gaps to their boundaries.
 4. The site forms a substantial gap between the terrace of four properties and the neighbouring terrace of three houses, wider than the gaps between most buildings in the locality, which would be substantially filled by the proposed dwelling. It would have a gabled roof above that does not reflect the hipped roof of the existing property and would unbalance this property compared to the opposite end of the terrace as well as contributing toward the closing of the gap between the terraces. The resulting gap would be narrower than others in the locality, such that it would adversely affect the rhythm of development within the street scene and would appear cramped on the site.
 5. The proposed dwelling would be constructed in materials and have windows that would reflect those of the existing terrace, but that would not outweigh the harm resulting from the cramped appearance of the proposed development.
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6. On that basis, I conclude that the proposed terraced dwelling would harm the character and appearance of the existing building and surrounding area. As such, it would be contrary to Policies CP12 and CP14 of the Brighton and Hove City Plan Part One (CP) that that seeks to raise the standard of architecture and design in the city and establish a strong sense of place, respecting the character of the surroundings and be appropriate to the positive character of the neighbourhood.
7. Reference is made to there being a lack of supply of housing in the borough and the proposed development would provide a single dwelling toward that supply. The appeal site is close to services and facilities, and the proposal would make a contribution to the supply and mix of housing in the area. It would be an energy efficient property that would provide a good standard of living to future occupiers. However, the harm that I have identified to the character and appearance of the area would significantly and demonstrably outweigh the benefit of the development to the local housing supply.
8. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR

Appeal Decision

Site visit made on 3 April 2017

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

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

Decision date: 02 May 2017

Appeal Ref : APP/Q1445/X/16/3165939

Land at Gateways, Highdown Road, Hove, BN3 6EE.

- 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 lawful development certificate by Brighton & Hove City Council dated 24 October 2016.
- The appeal is made by Mr Andrew Peel.
- The application ref BH2016/02526 was dated 20 June 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 lawful development certificate is sought is building works included on the plans attached to the application, namely block plan, location plan, drawing MM/02/Gateways.

Summary of Decision: the appeal is dismissed

Application for costs

1. The Appellant has made an application for costs against Brighton & Hove City Council and this is the subject of a separate decision.

Preliminary Matters

2. The Appellant asks that his intentions for development are taken into account and that I should look to the spirit of the legislation and the impact of the proposal on the overall appearance and internal layout of the building. But for the avoidance of doubt I should explain that the planning merits of the development are not relevant to this appeal which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts rests on the Appellant and the test of evidence is made on the balance of probability.
3. The description of development on the application the subject of this appeal is 'the extent of the building work has been included in the attached plans'. The plans submitted with the application show a single storey front, side and rear extension and alterations to front boundary wall. They show an existing garage replaced by a proposed study. The Council wrote to the Appellant on receipt of the application and stated that the description of development was 'proposed demolition of garage and erection of single storey front, side and rear extension, alterations to front boundary wall' and asked to be contacted if the description was inaccurate. No response was received. The Council

determined the application based on the description of development it had set out in that letter, namely that the proposal included the demolition of the garage. The Appellant in this appeal says that he did not consent to this description of development and that he had no intention of demolishing the garage.

4. Section 192 of the 1990 Act (as amended) does not afford the power to alter the description of development. I therefore have based this decision on the description set out in the application form. The Council say that they relied on a description of development on a previous application which referred to demolition but I must consider the application the subject of this appeal as it stands before me. The plans attached to the application show the alteration of the garage and I will determine the appeal accordingly. I make no assumption that the proposal includes the demolition of the garage.

Main Issue

5. I consider that the main issue is whether the Council's decision to refuse to grant a LDC was well-founded.

Reasons

6. The appeal site is a two storey dwellinghouse with attached garage.

Front/side extension

7. Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO) sets out permitted development rights for the enlargement, improvement or other alteration to a house subject to certain conditions and limitations. Paragraph A.1 (e) provides that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall which (i) forms the principal elevation of the original dwellinghouse; or (ii) fronts a highway and forms a side elevation of the original dwellinghouse.
8. The parties take different views on whether the garage forms part of the original dwellinghouse. The Appellant places before me historic plans not before the Council when they determined the application. These plans are dated 1932 and appear to show that the garage was part of the original dwellinghouse. This supports the application which refers to the property, including the garage, being built in 1932. There is nothing before me to counter the Appellant's submission that the original dwellinghouse includes the garage and whilst I recognise that the Council did not have the historic plans before them when they determined the application I must base my decision on the evidence before me in this appeal. I determine this appeal on the basis that the original dwellinghouse includes the garage.
9. Turning to whether the proposal would extend beyond a wall which forms the principal elevation. The point at issue between the parties is whether the principal elevation includes the line of the garage which is at an angle to the highway (in which case the proposal extends beyond it) or whether it is the extended line of the forward most projecting point of the garage to the boundary (in which case the proposal would not extend beyond it).

10. Principal elevation is not defined in the GPDO but the Government's Permitted Development for Householders: Technical Guidance (the Technical Guidance) states that in most cases the principal elevation will be that part of the house which fronts directly (or at an angle) the main highway serving the house. It says that the extent to which an elevation fronts a highway will depend on factors including the angle between the elevation of the house and the highway. If the angle is more than 45 degrees it says that the elevation will not normally be considered as fronting a highway. It also states that the principal elevation could include more than one wall facing in the same direction and in such cases all such walls will form the principal elevation.
11. Whilst I recognise that the Guidance is not determinative it does nevertheless provide useful guidance. It does not support the Appellant's interpretation and I see no reason to take a different approach in the circumstances of this case. I find that as a matter of fact and degree in the circumstances of this particular case that the principal elevation is the wall of the original garage that faces the highway and the line of the garage at an angle of less than forty five degrees to the highway. The proposed extension would project beyond that elevation and for these purposes it does not satisfy Class A.1(e).
12. Class A.1(j) provides that development is not permitted by Class A if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would (i) exceed 4 metres in height, (ii) have more than a single storey, or (iii) have a width greater than half the width of the original dwellinghouse. There is no dispute that Class A.1(j)(i) and (ii) are met and I have no reasons to conclude otherwise.
13. Taking the original dwellinghouse to include the garage the front extension would not have a width greater than half the width of the original dwellinghouse and A.1(j)(iii) is met.
14. Therefore for the reasons set out above I find the proposed front/side extension satisfies Class A.1 (j) but fails to satisfy Class A.1 (e) and requires planning permission.

Rear extension

15. The parties disagree as to whether the rear extension would extend beyond a wall forming a side elevation of the original dwellinghouse for the purpose of Class A.1 (j).
16. The Appellant argues that the proposal would not extend beyond the furthest point on the side elevation near the garage. But the Technical Guidance advises that a wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall and that houses will often have more than two side elevation walls. I find that in this case the wall to the bathroom is a side wall of the original dwellinghouse. The rear extension therefore extends beyond a side elevation of the original dwellinghouse.
17. The width of the original dwellinghouse (including the garage) is 12.4 metres. The parties do not however agree on the width of the rear

extension. The Council say it is 7.94 metres and therefore greater than half the width of the original dwellinghouse. The Appellant says its width is 4.1metres but provides no explanation.

18.Looking at the application plans I find the Council's measurements to be correct. The rear extension therefore does not meet Class A.1 (j) and does not benefit from permitted development rights.

Conclusion

19.For the reasons given above I conclude that the Appellant has failed to show that the proposed extension would be granted planning permission under Article 3 Schedule 2 Part 1 Class A of the GPDO. On the balance of probabilities the development would fail to comply with paragraph A.1 (e) and (j) and express planning permission would be required. The Council's refusal to grant a LDC for the proposed extension was well-founded, albeit for slightly different reasons than those stated by the Council, and the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decision

20.The appeal is dismissed.

S.Prail

Inspector

Appeal Decisions

Site visit made on 7 February 2017

by **L Gibbons BA (Hons) MRTPI**

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

Decision date: 9th February 2017

Appeal A Ref: APP/Q1445/W/16/3158331 85 Rotherfield Crescent, Brighton BN1 8FH

- 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 Morel De Mendonca against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01796, dated 18 May 2016, was refused by notice dated 28 July 2016.
 - The development proposed is two proposed semi-detached dwellings to the rear of 85 Rotherfield Crescent.
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Appeal B Ref: APP/Q1445/W/16/3159819 85 Rotherfield Crescent, Brighton BN1 8FH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Morel De Mendonca against Brighton & Hove City Council.
 - The application Ref BH2016/01778, is dated 18 May 2016.
 - The development proposed is a proposed attached dwelling.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Application for costs

3. An application for costs was made by Mr Morel Mendonca against Brighton & Hove City Council. This application will be the subject of a separate Decision.

Procedural Matter

4. The Council indicates that had it been in a position to determine the planning application for Appeal B, it would have been refused for reasons relating to the character and appearance of the area and the living conditions of the future occupiers in respect of the standard of accommodation to be provided.

Main Issues

5. The main issues are:
 - i) The effect of the proposed schemes on the character and appearance of the area;
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- ii) The effect of the proposed schemes on the living conditions of the future occupiers in respect of the standard of accommodation to be provided, and with regard to Appeal A only, the effect of the proposed development on the living conditions of the occupiers of No 83 Rotherfield Crescent in respect of outlook and privacy, and No 85 Rotherfield Crescent in respect of outlook.

Reasons

Character and appearance

6. The appeal site is located within a residential area which has a mix of semi-detached and terraced housing. There is variety to the designs of the houses with a mix of pitched and hipped roofs, staggered and uneven building lines and a range of materials. Where there are junctions with other roads, generally the houses are positioned so that there is a spacious quality to these areas. The area has a pleasant suburban appearance.
7. The houses on Rotherfield Crescent are set back from the road and have fairly large front gardens. Rotherfield Close consists of mainly terraced properties which are closer to the road and have slightly smaller plots than those on Rotherfield Crescent. Nos 83 and 85 is a pair of semi-detached houses set at an angle to the road. No 85 has a side garden which allows good views of the properties on Rotherfield Close and results in a sense of spaciousness which is an attractive feature of this part of the road. I acknowledge that the appeal sites are not within a Conservation Area and there are no listed buildings nearby.
8. *Appeal A*. The proposed development would involve the demolition of a garage to the rear of No 85 and the erection of a pair of semi-detached dwellings. The front elevation of these houses would come slightly forward of No 1 Rotherfield Close. However, this positioning would not result in a significant reduction in the sense of spaciousness on the corner of Rotherfield Crescent and Rotherfield Close. This is because the side garden of No 85 would be retained, and it would still be possible to see towards the houses on Rotherfield Close from the main road.
9. The roof design of the proposed semi-detached houses would be different from the adjoining properties. However, the roofscape would be seen against the backdrop of the roofs rising away from the buildings and it would have a lower ridge height than No 1 Rotherfield Close. The flat roof element is not wide and would therefore not be particularly noticeable. Although the properties would be located close to the terrace to the west, the appearance of houses close together in a row is not unusual in this area. The scheme would be separated from No 1 by the garage and due to its position it would be mainly seen in the context of Rotherfield Close, which has a closer knit pattern of development than Rotherfield Crescent.
10. For the reasons given above, I conclude that Appeal A would not cause harm to the character and appearance of the area. It would not be in conflict with Policy CP12 of the Brighton and Hove City Plan Part 1 2016 (CPP1). This amongst other things seeks new development which will be expected to establish a strong sense of place by respecting the diverse grain and character of the city's identified neighbourhoods.

11. *Appeal B*. The proposed scheme would involve the addition of another dwelling on to the north elevation of No 85 as an extension. The design of the dwelling and materials would match that of the existing houses and would have the same ridge height. Groups of three houses in a terrace are also a feature of the area.
12. However, in this case the extension would come significantly forward of the building line along Rotherfield Close. The side elevation would be very close to the road and in a prominent position on the corner. This would result in it being a dominant feature in the street scene. It would obscure the building line on Rotherfield Close and would reduce the sense of spaciousness in this area to a significant degree.
13. The proposal would result in the addition of a raised parking area at the front on No 85. This would be a specific feature of the proposal which is not generally found in the immediate area. However, parking in front gardens is not uncommon in the wider area and I consider it would not result in material harm to the streetscene. However, it is not sufficient reason to outweigh the harm I have found.
14. For the reasons given above, I conclude that Appeal B would cause harm to the character and appearance of the area. It would be in conflict with Policy CP12 of the CPP1.

Living conditions

15. *Appeal A*. The proposed dwellings would be positioned so that the side elevation of Plot 1A would be very close to the rear elevation of No 85 with very little rear garden space in between. The proposal would retain the side garden at No 85. Nevertheless, the blank elevation would be seen as a very dominant feature from the rear rooms of No 85, and would result in that portion of the rear garden and those rear rooms feeling very dark and enclosed.
16. The boundary of the appeal site with No 83 includes a mix of deciduous and evergreen planting within the garden of No 83. It is possible to see through the planting when the shrubs are not in leaf. The rear elevation of the proposed dwellings would be along the length of the garden at No 83. The aspect towards Rotherfield Close from No 83 is open, and the introduction of built form for a significant proportion of the garden would result in an increased sense of enclosure within the rear garden of No 83.
17. I accept that some overlooking is not uncommon in areas such as these. However, the rear windows of both proposed dwellings would face towards the rear garden of No 83. This would lead to a material loss of privacy for the occupiers of No 83 when within their garden. In addition, given the proximity of proposed plot 1A to the rear elevation of No 83, this would result in a significant increase in the perception of overlooking to the occupiers of No 83 when within the rear habitable rooms.
18. I note that the Council does not refer to particular size standards for outdoor space. Saved Policy HO5 of the Brighton and Hove Local Plan 2005 (LP) refers to private useable outdoor amenity space where appropriate to the scale and character of development. The outdoor rear gardens of the dwellings would be constrained by the rear boundary which would be close to the rear elevation of

the houses. In addition, the front outdoor space would be occupied by car parking spaces. The dwellings would be four bedrooms and as such they are likely to be occupied by families. I accept that not everyone would require a garden which would need some maintenance. Nevertheless, there would be very little useable space for sitting out and play. The nearby terraced properties have much larger gardens than those proposed within the scheme and the houses would be of a similar size and scale. The space provided would be considerably at odds with the surrounding properties. Overall, I consider that the scheme would not provide sufficient outdoor space which could be reasonably expected by future occupiers.

19. For the reasons given above, I conclude that the proposed scheme would cause harm to the living conditions of the occupiers of No 83 Rotherfield Close in respect of privacy and outlook and to the occupiers of No 85 in respect of outlook. It would also cause harm to the future occupiers of the proposed dwellings in respect of the standard of outdoor space to be provided. It would be in conflict with saved Policy QD27, which seeks to protect the amenity of adjacent users and future occupiers, and Policy HO5 of the LP.
20. *Appeal B*. There would be three bedrooms within the proposed dwelling with one located within the roofspace. The national Technical Housing Standards are referred to in terms of room sizes. The Council consider the bedroom within the roofspace would be particularly deficient in this respect. However, the Council does not refer to any particular room standards as set out within the development plan that would be in line with the technical standards.
21. Notwithstanding, the bedroom within the roof would have a very restricted head height within a considerable proportion of the room. This would lead to a significant lack of useable and easily accessible space within the room. The size of the other two bedrooms would not be particularly large and in combination with the lack of useable space in the second floor bedroom, I consider this would lead to an unacceptable standard of accommodation for future occupiers.
22. The rear patio area of the new dwelling would be small. Nevertheless, although the front garden of the dwelling would be lower than the road, it would provide additional space for sitting out, and would be large enough for opportunities for landscaping to provide screening for the occupiers. However, this does not outweigh the harm I have found.
23. For the reasons given above, I conclude that the proposed development would cause harm to the living conditions of the future occupiers of the proposed dwellings in respect of the standard of accommodation to be provided. It would be in conflict with saved Policy QD27 of the LP.

Other matters

24. The appellant refers to residential development which has taken place in the area. However, I do not have full details of the circumstances that led to these proposals being acceptable and so cannot be sure that they represent a direct parallel to the appeal schemes. In any case, I have determined the appeals on their own merits.

Conclusions

25. I have found that the proposed development for Appeal A would not cause harm to the character and appearance of the area. However, it would cause harm to the living conditions of the occupiers of No 83 Rotherfield Close in respect of privacy and outlook and to the occupiers of No 85 in respect of outlook. It would also cause harm to the living conditions of future occupiers of the proposed dwellings in respect of the standard of outdoor space to be provided.
26. The proposed development for Appeal B would be acceptable in terms of the standard of outdoor space. However, it would cause harm to the character and appearance of the area and to the living conditions of future occupiers in terms of the internal standard of accommodation to be provided.
27. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up to date if local planning authorities cannot demonstrate a five year supply of housing land. My attention has been drawn to two High Court judgements in relation to five year housing land supply. The appellant contends that a five year supply of housing land does not exist within the area and that relevant policies are therefore out of date. I note that the area is constrained by the South Downs National Park to the north. However, I find the evidence regarding whether or not the Council has a five year supply of housing land inconclusive.
28. I am satisfied that the requirements of the development plan policies referred to in respect of design and the amenity of neighbouring and future occupiers reflect the objectives of the Framework, notably the core principles that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. I therefore consider that these policies are not out of date and I give them full weight.
29. The appeal sites are located in an accessible location with good access to services and facilities. The schemes would make a very small contribution to the housing supply and mix of housing types within the area, and would make use of land which is currently not in active use. However, I consider these factors would have limited weight. Having regard to paragraph 14 of the Framework, the adverse effects of each appeal scheme would significantly and demonstrably outweigh the benefits. The schemes are thus not sustainable development for which there is a presumption in favour.

Appeal A

30. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Appeal B

31. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

L Gibbons

INSPECTOR

Costs Decision

Site visit made on 7 February 2017

by **L Gibbons BA (Hons) MRTPI**

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

Decision date: 11 May 2017

Costs application in relation to Appeal Ref: APP/Q1445/W/16/3159819 85 Rotherfield Crescent, Brighton BN1 8FH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Morel De Mendonca for a full award of costs against Brighton & Hove City Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for a proposed attached dwelling.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense.
 3. The applicant's principle submission of unreasonable behaviour relates to the Council's handling of the planning application that led to a failure to determine it within the prescribed limit. The applicant refers to paragraph 049 of the Guidance that sets out that the Council should give the applicant a proper explanation if it is clear that they will fail to determine an application within the time limits.
 4. From the information provided by the Council and the applicant, extensions of time had been sought by the Council. I note that one of the emails from the Council was not correctly addressed although the applicant does appear to have received it. That said, whilst clarification is provided in the Council's response to the costs application that the volume of planning applications resulted in delays, there was no similar information provided in response to the appeal. In addition, the original emails from the Council do not explain the reasons for the request for extensions of time. I consider the Council behaved unreasonably in this particular respect by failing to provide the applicant with a proper explanation.
 5. However, the appeal did not succeed as I have concluded that the scheme would cause harm to the character and appearance of the area, and that it would not provide an acceptable standard of accommodation for future occupiers in respect of the internal space. The applicant's evidence in these matters was therefore a necessary part of the appeal process. The Council
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justified and adequately explained their position in relation to the concerns about the proposal in the Council's officer report. The Council also referred to the relevant development plan policies. I also note that the Council had previously explained to the applicant that they had fundamental concerns with the scheme, and I am not persuaded that the appeal could have been avoided altogether.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Guidance has not been demonstrated.

L Gibbons

INSPECTOR

Appeal Decision

Site visit made on 18 April 2017

by **Nicola Davies BA DipTP MRTPI**

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

Decision date: 11 May 2017

Appeal Ref: APP/Q1445/D/17/3172257

84 Wayland Avenue, Brighton

- 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 W Catchpole against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05928, dated 25 October 2016, was refused by notice dated 1 March 2017.
 - The development proposed is described as "*a first floor side extension, internal alterations*".
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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 the character and appearance of the area and the living conditions of adjoining occupiers.

Reasons

Character and appearance

3. Wayland Avenue is characterised by a mix of detached two-storey and single-storey properties. I observed that there is a general sense of space between dwellings within this streetscene and where garages or single-storey side extensions are positioned adjacent to side boundaries, most properties retain space above. These spaces contribute to the rhythm and pattern of development in the area and forms part of the overall character of the area.
 4. Supplementary Planning Document 12 'design guide for extensions and alterations' requires a minimum width of 1 metre to be maintained between the side boundary and the extension. It also advises that where the property is located in a more spacious plot, a greater separation may be more appropriate.
 5. In this area the spaces between dwellings are generally greater than 1 metre. Whilst the proposed development at first floor level would meet with this requirement and retain a gap between dwellings, the resulting space between the proposed extension and No 86 Wayland Avenue would not reflect the more generous spaces between properties within the area. Furthermore, the appearance of built development close to the side boundary of No 36 would be
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more pronounced as No 36 is a bungalow. The proposed development would therefore be out of keeping with the character and appearance of this streetscape that predominantly incorporates significant space between dwellings and side boundaries.

6. I therefore conclude that, for the above reasons, the proposed development would have a harmful effect on the character and appearance of the area. It would be in conflict with Policy QD14 of the Brighton & Hove Local Plan which seeks extensions to existing buildings to take account of the existing space around buildings and the character of the area, amongst other matters.
7. Whilst the Council considers the design of the pitched roof, bridging the difference in the footprint of the ground and first floor, would create an overly complicated form, I observed that other examples of similar small side pitched roofs in the area. The form of the proposed development in this respect would not be appreciably different to that of existing development in the area.

Living conditions

8. The side elevation of No 86 Wayland Avenue hosts three windows that face toward the appeal site and the proposed side extension. These windows are positioned in close proximity to the common boundary. The side windows of No 86 currently have some outlook over the roofs of the existing single-storey extensions and I observed that daylight and sunlight was able to reach these windows. Although the ground floor footprint would remain unchanged, the proposed second storey would add considerable bulk in close proximity to at least two of these windows. The combination of the height and proximity of the proposed two-storey extension would restrict light to these windows. This would make the internal rooms of this adjoining property gloomier as a result, even if these are secondary windows.
9. I acknowledge there are a number of rooflights within the side roof slope of No 86 that face toward the appeal site. The Council has not raised concern to the proposal in respect of these windows and living conditions. I have no reason to come to a different view on this matter.
10. For the reasons above, I conclude that the proposal would be harmful to the living conditions of the adjoining occupiers. The proposed development would be contrary to Policies QD14 and QD27 of the Brighton & Hove Local Plan which require extensions not to result in significantly loss of outlook, daylight/sunlight or amenity to neighbouring residents, amongst other matters. The proposed development would also be contrary to the aims of paragraph 17 of the National Planning Policy Framework that seeks to secure a good standard of amenity for all existing occupants of land and buildings.

Conclusion

11. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR

Appeal Decision

Site visit made on 2 May 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/Q1445/W/17/3169810

11 Cross Street, Hove BN3 1AJ

- 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 Miss Charlotte Sommers of Gladstone Sommers Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05314, dated 16 September 2016, was refused by notice dated 25 January 2017.
 - The development proposed is change of use from small House in Multiple Occupation (C4) to large House in Multiple Occupation (sui generis).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from small House in Multiple Occupation (C4) to large House in Multiple Occupation (sui generis) at 11 Cross Street, Hove BN3 1AJ in accordance with the terms of the application, Ref BH2016/05314, dated 16 September 2016, subject to the following conditions:
 - 1) The kitchen and lounge area as detailed on drawing no. 1179/04 received on 16 September 2016 shall be retained as communal space at all times and shall not be used as a bedroom.
 - 2) The development hereby approved shall only be occupied by a maximum of seven (7) persons.

Preliminary Matter

2. The development has been completed and I was able to view inside the property during my visit.

Main Issues

3. The main issues are:
 - Whether prospective occupiers of the house in multiple occupation would enjoy satisfactory living conditions, having particular regard to the suitability of the internal spaces; and
 - The effect of the proposed large House in Multiple Occupation on the living conditions of occupiers of surrounding properties with particular regard to noise and disturbance.
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Reasons

Living conditions of occupiers

4. The appeal premises now comprise seven bedrooms with shared bathroom and two shower rooms, along with communal kitchen on the ground floor and communal living/dining room on the lower ground floor. The previous use was as a House in Multiple Occupation (HMO) under use class C4 with five bedrooms. The previous living room on the ground floor has been converted to provide two bedrooms, the top floor bathroom is now a bedroom and the lower ground floor rear bedroom now forms the living/dining room, with the en-suite bathroom now converted to provide the two shower rooms shared between the residents.
5. Each of the bedrooms contains a bed, small desk and a wardrobe, with most also having a washing basin. There is space in all the bedrooms for some circulation space and, despite varying in size, none of the bedrooms felt cramped.
6. My attention has been particularly drawn to the lower ground floor, front ground floor and rear second floor bedrooms that the Council suggest are below the Nationally Described Space Standards. Planning Practice Guidance (Reference ID: 56-018-20150327) confirms that the absence of a Local Plan policy relating to minimum room sizes means the Nationally Described Space Standard cannot be applied to the proposal. I note that the lower ground floor and front ground floor bedrooms were existing bedrooms when the house operated as an HMO under use class C4. The rear second floor bedroom is larger than those two rooms and, whilst modest, provides adequate living accommodation.
7. The lower ground floor bedroom and living room have limited window space, which reduces the amount of light available for occupants, but both were used as bedrooms prior to the recent alterations to the building. There is no outdoor amenity space at the property, but neither was there prior to the changes being made. As a result, the alterations carried out have not materially altered the quality of living accommodation available for occupants.
8. I understand that the property has been licenced for occupation for up to 7 people. The legislation regarding licences is separate from planning regulations that seek to ensure an acceptable standard of living conditions for residents. However, provision of a licence would support my view that the accommodation provides adequate living conditions for residents.
9. For the above reasons, I conclude that the accommodation at the property provides adequate living conditions for the intended number of occupants. As such, the proposal complies with Policy QD27 of the Brighton & Hove Local Plan (LP) that seeks to ensure adequate living conditions for occupants of properties.

Living conditions of neighbouring occupiers

10. Given the provision of two additional bedrooms, the maximum number of residents of the property has increased from five to seven. The additional residents result in a more intensive use of this terraced property, with more comings and goings, and there could be changes to patterns of behaviour and

- consequential disturbance that could lead to additional noise and disturbance to occupiers of surrounding properties, particularly the attached neighbours.
11. Policy CP21 of the Brighton & Hove City Plan Part One seeks to address the issues caused by a concentration of HMOs in parts of the City, including those set out above and with reference to government research justifying that concern, by restricting the overconcentration of HMOs within an area. In this instance, the proposed development complies with that policy due to the limited number of HMOs in the surrounding area. However, additional policies, including Policies QD27 and SU10 of the LP seek to protect the living conditions of occupiers of existing or adjacent occupiers including arising from the effect of noise and disturbance. As a result, it is possible that conversion of a property to a larger HMO could comply with Policy CP21 but not with Policies QD27 and/or SU10 of the LP.
 12. The area around Cross Street is a mix of uses, including public house, restaurants and shops, hotels, bed and breakfast accommodation and residential development. Consequently, this is an active part of the town where there is an existing level of noise and disturbance from activity associated with those uses, such that the extra accommodation provided does not materially add to this.
 13. I note that previous works to the property and tenants living in the property have been disruptive to neighbouring occupiers and that the manager of the property has been difficult to contact. However, limited evidence has been provided to substantiate these matters and there is no reason to consider that the additional residents would necessarily materially increase noise and disturbance to neighbouring occupiers.
 14. I conclude that, taking account of the site context and limited number of additional occupiers, the amount of additional noise and disturbance does not materially affect the living conditions of neighbouring occupiers. As such, the proposed development would comply with Policies QD27 and SU10 of the LP.

Other matters

15. I understand that the rear extension was constructed without the benefit of planning permission, but the Council suggest that this has become lawful through the passage of time. The extension may have been built over the boundary to an adjoining property and with a door opening onto land outside the ownership of the appellant, but ownership matters are a private matter between the relevant parties and not within my jurisdiction. The Council refer to concerns as to emergency exit from the ground floor rear bedrooms that are accessed via the communal kitchen, but this is subject of separate regulations. Two additional residents would have limited effect on provision of sewage, rubbish and recycling facilities. I note that parking in the area may be difficult, but the property is within a Controlled Parking Zone that constrains opportunities for additional parking and it is well located in relation to services and facilities. It is suggested that the development may form a precedent for additional HMOs in this area, but future applications would be assessed on their own merits.

Conditions

16. A condition is necessary to retain the communal space as such and limit occupancy to seven in order to ensure a suitable standard of accommodation for residents of the property. I have not included a condition removing permitted development rights as I do not consider it to be necessary. Such rights should be removed only in instances of specific and precise justification. I find no exceptional circumstances in this case such as to warrant the wholesale removal of these rights.

Conclusion

17. For the above reasons and taking into account all other matters raised I conclude that the appeal should succeed.

AJ Steen

INSPECTOR

Appeal Decision

Site visit made on 20 April 2017

by C J Leigh BSc(Hons) MPhil MRTPI

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

Decision date: 17 May 2017

Appeal Ref: APP/Q1445/D/17/3168353
44 Old Shoreham Road, Hove, BN3 6GF

- 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 Langley against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05621, dated 10 October 2016, was refused by notice dated 5 December 2016.
 - The development proposed is a two storey side extension linking the house to the adjacent garage.
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Preliminary matters

1. I noted at my site visit work was underway relating to raised decking at the rear of the property. Such work is not included on the submitted drawings or the description of development proposed, and so forms no part of my decision.

Decision

2. The appeal is allowed and planning permission is granted for a two storey side extension linking the house to the adjacent garage at 44 Old Shoreham Road, Hove, BN3 6GF in accordance with the terms of the application Ref BH2016/05621, dated 10 October 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) The development hereby permitted shall be carried out in accordance with the following approved plans: 0294-16-01, 0294-16-02, 0294-16-03, 0294-16-04, 0294-16-05, 0294-16-06 & 0294-16-07.

Main issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. The proposed extensions would see the infilling of a small area at ground level, but above this would be a much wider addition at first floor. This would increase the width of the dwelling by incorporating the existing garage, with a
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new front gable projection to the house. The resulting house would not be symmetrical, but there is not an existing symmetry to the building at present; nor, indeed, is there a predominant character of such in the surrounding area. Houses show variation in the position and size of gable ends and pitched roofs – both on individual properties and between adjoining properties – and the design and form of the building that would result from the extensions to No. 44 would fit within that non-uniform character. The property is set lower than the pavement and road, and the design and scale would not be imposing in views along the road.

5. The extended part of the house would join the existing front gable to the property, and it would relate well in scale and design by continuing the ridge line that is lower than the main house, and by showing proportions in the new gable to match the existing gable. I acknowledge that the Council's Supplementary Planning Document (SPD): Design Guide for Extensions and Alterations (2013) advises that two storey side extensions should generally be set back from the frontage and main ridge line by at least 0.5m and have a width no greater than half the frontage width of the main building. The extension would not accord with these dimensions. However, the particular circumstances of the design of the existing property, and the manner in which the extension has been designed to relate to the front gable and the setting of the house, mean that the extension would in fact appear as a subservient addition to the house. The character of the property would not be overwhelmed by the proposals, and so the scheme would be consistent with the over-arching general principle of the SPG that requires extensions to not dominate or detract from the original building or the character of an area.
6. It is therefore concluded on the main issue that the proposed development would not be harmful to the character and appearance of the surrounding area. It would be consistent with the objectives of Policy QD14 of the Brighton & Hove Local Plan, and the SPD, which seek to ensure that extension and alterations to buildings are well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area.
7. The appeal is therefore allowed. I have attached the Council's suggested conditions requiring matching materials, to ensure a satisfactory appearance to the development, and a further condition specifying the relevant drawings as this provides certainty.

C J Leigh
INSPECTOR

Appeal Decision

Site visit made on 2 May 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 18 May 2017

Appeal Ref: APP/Q1445/W/17/3168542

1 Goldstone Street, Hove, East Sussex BN3 3RJ

- 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 S A Alajmi against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05201, dated 31 August 2016, was refused by notice dated 11 November 2016.
 - The development proposed is the erection of 1 no. house (C3) with ground & lower ground floor.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 no. house (C3) with ground & lower ground floor at 1 Goldstone Street, Hove, East Sussex BN3 3RJ in accordance with the terms of the application, Ref BH2016/05201, dated 31 August 2016, subject to the conditions contained in a schedule at the end of this decision.

Main Issues

2. The main issues are:
 - The effect of the proposed dwelling on the character and appearance of the surrounding area; and
 - The effect of the proposed boundary wall between the proposed dwelling and basement flat at 37 Goldstone Road on the living conditions of neighbouring occupiers of that flat with particular regard to outlook.

Reasons

Character and appearance

3. The area around Goldstone Street is primarily comprised of terraced three storey houses including lower ground floors that front the streets at right angles to Goldstone Street. The space between the rears of these dwellings is narrow, resulting in limited gaps fronting Goldstone Street between those buildings that are typically filled with additional development. This includes two storey detached properties, such as that at 3 Goldstone Street, and single storey infill buildings. Those single storey buildings are typically outbuildings relating to adjacent buildings in commercial use, such as the outbuilding previously at 1 Goldstone Street that I understand was attached to the rear of
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the former shop at 37 Goldstone Road. Whilst these single storey buildings link development along the road and to the adjacent long terraces, they do provide gaps at first floor that provide some spaciousness to the road.

4. In this context, a single storey building in the location of 1 Goldstone Street would reflect that character along this road and retain the gap at first floor, unlike the previously proposed two storey dwelling (appeal reference APP/Q1445/W/16/3143739). The lower ground floor, including lightwell, of the building would be similar to the lower ground floors of the surrounding terraced houses such that it would reflect the appearance of surrounding properties. The proposed dwelling would have sash windows and domestic front door that would differ from the more utilitarian appearance of similar infill buildings along the road. However, this more domestic appearance would reflect the use of the building and would reflect the character of dwellings in the surrounding roads.
5. For these reasons, I conclude that the proposed dwelling would reflect the character and appearance of the surrounding area. As such, the proposed development would comply with Policy CP12 of the Brighton and Hove City Plan Part 1 (CP) that seeks to raise the standard of architecture and design in the city and respect the character and urban grain of the surrounding area.

Living conditions

6. The proposed dwelling would be over two floors, being the ground floor at street level and lower ground floor below. A small courtyard garden would be provided adjacent to the courtyard belonging to the lower ground floor flat in the adjacent property of 37 Goldstone Road and divided by a wall of 2.5m height, reduced from that of the previous appeal scheme at 3.4m.
7. At present, there is a fence at existing ground level adjacent to the rear wall of 37 Goldstone Road. Given that this fence is approximately at street level, it is significantly higher than the proposed wall. Although it is further from the existing basement flat, it dominates that small courtyard to a much greater extent than the wall proposed.
8. I therefore conclude that the proposed boundary wall between the proposed dwelling and basement flat at 37 Goldstone Road would not have a greater effect on the living conditions of neighbouring occupiers of that flat, with particular regard to outlook, than the existing situation. As such, the proposed development would not conflict with Policy QD27 of the Brighton and Hove Local Plan that seeks to protect the living conditions of adjacent residents or occupiers.

Other matters

9. The site is currently unused and there is no evidence that it would be used as outside amenity space for adjacent dwellings, such that there would not be a loss of such space from the proposed development. I note that the removal of the previous building on the site may have resulted in the loss of a retail unit, but other local shopping facilities are available locally.
10. Whilst at a low level, sufficient daylight and sunlight would be available to the small courtyard to provide adequate living conditions for occupiers of the proposed dwelling. Limited windows are proposed to the rear of the dwelling, one of which would be obscure glazed and at high level and the kitchen window would be set away from the rear boundary, such that they would not result in a

material increase in overlooking of neighbouring properties. The proposed dwelling would be modest in size, but would be sufficient to provide adequate living conditions for future occupiers. Whilst no parking is proposed, the site is located in a Controlled Parking Zone such that the parking of vehicles in association with the dwelling can be managed.

11. My attention has been drawn to a County Court judgment, but it is unclear how this is relevant to the planning merits of this case. I understand that the building at 37 Goldstone Road has been converted to flats by the appellant and some conditions attached to that permission may not have been complied with. However, these matters are not before me and I need to consider this case on its own merits.

Conditions

12. I have imposed a condition specifying the relevant drawings as this provides certainty. A condition is necessary for samples of materials to be submitted and approved to ensure that they would maintain the character and appearance of the area. A condition is necessary to ensure adequate cycle parking is provided to meet the needs of the occupiers of the proposed dwelling in accordance with Policy CP8 of the CP. I note the comments from the appellant suggesting there is limited space for this storage, but they suggest the space for refuse and recycling bin storage could be used for this purpose given that there is communal provision for bin storage elsewhere.
13. Conditions are necessary requiring energy and water efficiency measures to reduce the effect of the proposed development on the environment, in accordance with Policy CP8 of the CP. A condition is necessary to ensure that the dwelling is acceptable and adaptable to meet the needs of people with disabilities and meet the changing needs of households. In some cases I have amended the wording of conditions suggested by the Council in the interests of clarity.

Conclusion

14. For the above reasons and taking into account all other matters raised I conclude that the appeal should succeed.

AJ Steen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: RFA 15/324/50A and RFA 15/324/51B.
- 3) No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all external facing materials, including details of proposed windows and doors, have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.

- 4) 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.
- 5) No dwelling shall be occupied it has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
- 6) The dwelling shall not be occupied until the Building Regulations Optional requirements G2(3) (water efficiency) and M4(2) (accessible and adaptable dwellings) has been complied with and shall be retained as such thereafter.

Appeal Decision

Site visit made on 20 April 2017

by **C J Leigh BSc(Hons) MPhil MRTPI**

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

Decision date: 17 May 2017

Appeal Ref: APP/Q1445/D/17/3168615

35 Lenham Avenue, Saltdean, Brighton, BN2 8AG

- 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 Miss Antonia Paddock against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05334, dated 16 September 2016, was refused by notice dated 14 November 2016.
 - The development proposed is the conversion of an existing bungalow into a 1 1/2 storey house (new pitched roof first floor and internal alterations).
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect of the proposed development on, firstly, the character and appearance of the surrounding area and, secondly, the living conditions of adjoining occupiers.

Reasons

Character and appearance

3. The property is one of a small group of bungalows of similar appearance. Although the wider residential area is of varied character, it is apparent that this grouping of three bungalows takes account of their setting in the undulating landform of the area: the slope of the land gradually descends northeastwards, and so the gradual downwards sweep of the bungalows until reaching the marginally taller properties of Nos. 37 and 39 is appropriate to the area.
 4. The proposed raising of the appeal property would be a substantial addition which, as the Council say, would increase the dominance of the building and create a disruptive roofline at odds with the slope of the land and the existing setting of properties along that slope. The extended property would appear tall and incongruous in the street scene and so no longer respecting the landform and the relationship of the properties to the road. The anomalous appearance emphasised by the large glazed design in the front elevation.
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5. On the first issue it is therefore concluded that the proposed development would be harmful to the character and appearance of the surrounding area. The appellant has referred me to other properties in the wider area that have been extended, but I have determined this appeal on the basis of the circumstances pertaining to this case and the location of the existing bungalow as it relates to its setting and neighbours. For the reasons given, it is concluded that the proposal would be contrary to Policy QD14 of the Brighton & Hove Local Plan, which seeks to ensure that extension and alterations to buildings are well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area. It would also conflict with the general principles of the Council's Supplementary Planning Document (SPD): Design Guide for Extensions and Alterations (2013) that requires extensions to not dominate or detract from the original building or the character of an area.

Living conditions

6. The proposed works to the property would see the existing single storey building raised in height. From my observations at the site visit I could clearly appreciate this would lead to an overbearing effect on the outlook from No. 37 to the north, which is set at a lower level than No. 35, and a likely reduction in levels of light to that property due to its location to the north. The proximity of the appeal property to No. 33 to the south also means that the sizeable increase in height to No. 35 would be overbearing to the outlook from the rear garden of that property.
7. The extension shows windows to new bedrooms at the rear of the property. This would introduce a level of overlooking to the adjoining properties that does not exist, so leading to a material loss of privacy to existing residents adjoining either side, as well as to the rear of the appeal site at 14 Ashdown Avenue.
8. On the second issue it is concluded that the proposed development would be harmful to the living conditions of adjoining occupiers. This would be contrary to Policies QD14 and QD27 of the Local Plan, and the general principles of the SPD, which state planning permission will not be granted for development that causes loss of amenity to neighbouring properties.

Conclusions

9. I acknowledge the appellant's desire to improve the accommodation at the property in order to provide additional space, including to care for an elderly relative. However, I must balance these personal needs against other matters of acknowledged importance as set out in the adopted development plan. For the reasons given the proposed development would be harmful on the main issues, and the appeal is dismissed accordingly.

C J Leigh
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: 18 May 2017

Appeal Ref: **APP/Q1445/D/17/3170019** **246 Mackie Avenue, Brighton BN1 8SD**

- 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 Dean Hollinshead against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/05632, dated 11 October 2016, was refused by notice dated 9 February 2017.
 - The development proposed is a single storey side extension, alterations to roof with rear dormer and rooflights to the front, alteration to the rear sun-lounge.
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Decision

1. The appeal is allowed and planning permission is granted for single storey side extension, alterations to roof with rear dormer and rooflights to the front, alteration to the rear sun-lounge at 246 Mackie Avenue, Brighton BN1 8SD in accordance with the terms of the application, Ref BH2016/05632 dated 11 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: 05-0916-02 (floor plans proposed); 05-0916-03 (floor plans proposed); 05-0916-05 (elevations proposed); 05-0916-06 (location plan); 05-0916-07 (block plan existing); 05-0916-08 (block plan proposed); and 05-0916-11 (sections proposed).
 - 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.

Procedural Matter

2. As part of the appeal proposal the appellant submitted an illustrative drawing showing a fall-back position relating to the rear dormer. From the information provided by the appellant this had been requested by the Council and they have been provided with a further opportunity to comment on the drawing. Given the circumstances, I am satisfied that I can take the drawing into account without prejudicing the interests of the Council and other parties.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of No 246 Mackie Avenue.
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Reasons

4. The appeal site is within a residential area. The dwellings are a mix of semi-detached bungalows and houses. The majority of the bungalows have curved bay windows which are the most interesting feature of the properties. They also have hipped roofs although a number have gable roofs, and significant mismatches between the designs of adjoining properties do exist. Due to the street trees and planting providing some screening along the road the rhythm of the roofscape is not a highly prominent feature. A number of the bungalows within the area have flat roof dormer windows at the rear which vary in design and bulk. Full width dormers can also be seen when stood within the rear garden of No 246 Mackie Avenue.
5. The proposal would include the replacement of the existing roof with a hip to gable extension, extension of the rear dormer and alterations to the front dormer. I have been referred to the Council's Supplementary Planning Document Design Guide for Extensions and Alterations (SPD12) 2013. As the rear dormer would be a full width dormer, the proposal would not strictly accord with the SPD. I acknowledge that there is a difference between this scheme and a roof extension at No 2 Glenfalls Avenue referred to by the parties.
6. Nevertheless, No 246 has an existing front and rear dormer. The bungalow has an unbalanced appearance with the adjoining property, with the front and rear elevations of the properties being very different in appearance. In addition, the existing dormer ridges have a very awkward relationship with the roof. The proposed dormers would be clearly below the ridge of the main roof and this would be an improvement to the existing situation. In terms of public views the flat roof and cladding of the existing rear dormer is currently visible from the street. Due to the shape and materials of the proposed rear dormer being similar to the existing dormer it would not affect this view. Taking into consideration the design of the existing roof, the strong differences between the pair of dwellings, I conclude that the proposal would not materially detract from the character of the bungalow which has already been significantly altered.
7. For the reasons given above, I conclude that the proposed development would not cause harm to the character and appearance of No 246 Mackie Avenue. It would not be in conflict with saved Policy QD14 of the Brighton and Hove Local Plan 2005. This amongst other things seeks to only permit extensions or alterations to existing buildings, including the formation of rooms in the roof that are well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area.

Other matters

8. The appellant accepts that when considered as a whole the proposal would not fall under permitted development rights. However, in terms of a fall-back position relating to the rear dormer the illustrative drawing shows roof alterations which the appellant considers would be permitted development taking account of the existing dormers based on discussions with the Council. I consider the possibility of this being implemented does exist, however small. The Council refers to the fallback position having a reduced width dormer. However, the dormer would also lead to an unbalanced appearance that would be visible from the front elevation. I consider that the implications of the

scheme in respect of the rear dormer would be similar to the situation with the suggested fall-back position. I give the fall-back position significant weight.

Conclusion and conditions

9. 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. In order to protect the character and appearance of the area a condition is needed in respect of the materials to be used in the construction of the proposed extension.
10. 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 Decisions

Site visit made on 4 May 2017

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 19th May 2017

Appeal A Ref: APP/Q1445/W/16/3164159 **73 High Street, Brighton BN2 1RP**

- 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 Mick Perrin of Mick Perrin Worldwide Limited against the decision of Brighton and Hove City Council.
 - The application Ref BH2016/01369, dated 18 April 2016, was refused by notice dated 16 August 2016.
 - The development proposed is rear second floor extension, erection on new third floor, loft conversion and alterations.
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Appeal B Ref: APP/Q1445/W/16/3164204 **73 High Street, Brighton BN2 1RP**

- 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 Mick Perrin of Mick Perrin Worldwide Limited against the decision of Brighton and Hove City Council.
 - The application Ref BH2016/01370, dated 18 April 2016, was refused by notice dated 16 August 2016.
 - The development proposed is rear second floor extension, loft conversion and alterations.
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Appeal C Ref: APP/Q1445/W/16/3164209 **73 High Street, Brighton BN2 1RP**

- 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 Mick Perrin of Mick Perrin Worldwide Limited against the decision of Brighton and Hove City Council.
 - The application Ref BH2016/01367, dated 18 April 2016, was refused by notice dated 16 August 2016.
 - The development proposed is rear second floor extension, loft conversion and alterations.
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Decisions

1. Appeals A, B and C are dismissed.

Procedural Matters

2. Appeals A, B and C all relate to 73 High Street (No 73) and they concern three differently designed extensions that would variously raise the height of this property by between one and three floors, allowing for the difference in levels between the front and rear of the property. Each of the extensions would
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provide additional office accommodation that would be occupied by the appellant company.

3. Given the similarity of the issues raised by each of the extensions, I have considered the appeals concurrently, with the reasoning for the decisions I have made being set out below. For ease of reference I have referred to the additions relating to appeals A, B and C respectively as extensions A, B and C.

Main Issues

4. The main issues are: in relation to appeals A and B the effect of the development on the appearance of No 73 and whether the development would preserve or enhance the character or appearance of the East Cliff Conservation (the CA); and in relation to appeals A, B and C the effect of the development on the living conditions of the occupiers of 38A St James's Street (No 38A), with particular regard to outlook and privacy.

Reasons

Character and Appearance – Appeals A and B

5. No 73 is a part two storey and part three storey, with basement, semi-detached building with a gable ended pitched roof. The other half of this pair of semi-detached properties, No 72 is a full three storey property and its ridge line is above that of No 73. No 73 is situated within the extensive mixed use CA. High Street and the immediately adjoining streets, most particularly St James's Street, comprise buildings of varied ages, designs and heights and the roofscape therefore has an eclectic appearance.
6. Extension A would involve extending No 73 upwards to provide two additional floors at the front of the property and three extra floors to the rear, with the upper floor being housed within a flat roofed mansard. The design for extension A includes the insertion of mansard windows within the front and southern roof slopes. This extension would significantly raise No 73's height, with the result that the extended building would project respectively 1.6 metres and 3.2 metres above Nos 72 and 38A¹.
7. Extension A would increase the vertical emphasis of No 73 to the extent that it would become top heavy and out of proportion with the original building, with the width of this building being unable to carry the intended additional height. I consider that the absence of eaves level parapets to the front and side and the flat roof form of the addition would serve to accentuate the resulting building's top heavy appearance. Mansard extensions are not prevalent in the area and those that are present have a discrete presence and are therefore not comparable with extension A. I therefore consider that extension A would be an incongruous addition which would be harmful to the appearance of both No 73 and the CA.
8. Extension B would involve providing one additional floor at the front of No 73 and two extra floors to the rear. The design of extension B would include the provision of two wall type dormers, ie dormers springing off an elevation and cutting through the eaves line. There would also be two rooflights in the front roof plane positioned above the dormers. The rear half of extension B's roof

¹ Dimensions taken from the appellant's statement of case

would be of a flat roof form and when viewed from the street this addition would appear as having a ridge line corresponding with No 72's. While extension B's proportions would relate better to No 73 than would be the case for extension A, I consider that the incorporation of wall dormers would nevertheless detract from the appearance of No 73's front elevation. That is because the dormers would not relate well with the first and second floor level oriel windows, while the front rooflights would appear out of place. Although the glazed areas of the dormers would align with the glazing of the windows below, the dormers' overall width would not exhibit the narrowing normally associated with attic accommodation being of a lesser scale.

9. I consider that extension B would leave No 73 with a front elevation devoid of a coherent appearance. The use of wall dormers would also be out of keeping with the CA's appearance, with this dormer type not being readily apparent elsewhere in the CA. I therefore consider that extension B would not preserve the CA's appearance.
10. While the existing roof is clad in concrete tiles that roof covering is not readily apparent within the streetscene. I therefore consider that the use of artificial slates as the roof covering for extensions A or B would not address the harmful appearance of these additions. While High Street is less of a thoroughfare than St James's Street I consider that difference does not justify permitting extensions that would not be in keeping with the appearance of No 73 or the CA.
11. I conclude that extensions A and B would detract from No 73's appearance and would neither preserve nor enhance the CA's appearance. There would, however, be no effect on the CA's character in land use terms because No 73's use would be unaltered. Given the harm to the appearance of No 73 and the CA that I have identified extensions A and B would conflict with saved Policies QD14 and HE6 of the Brighton and Hove Local Plan of 2005 (the Local Plan); Policy CP15 of the Brighton and Hove City Plan Part One of 2016 and the Council's supplementary design document SPD12 'design guide for extensions and alterations' of 2013. That is because extensions A and B would not be well designed in relation to No 73 and would not preserve the appearance of the CA as a designated heritage asset. Given I have found that the design of extensions A and B would be unacceptable I also consider that paragraph 58 of the National Planning Policy Framework (the Framework) provides no support for these additions.
12. Although the harm to the significance of the CA would be less than substantial when considered within the context of paragraphs 133 and 134 of the Framework, I consider that there would be no public benefits that would outweigh the harm to the CA that would arise from extensions A or B.

Living Conditions

13. No 38A is a first and second floor maisonette orientated at right angles to No 73. No 38A has a small, well maintained, first floor level courtyard garden (garden) bedecked with numerous potted plants. The garden lies between No 38A's front door and the flank wall of No 73 and is a highly confined space, being almost completely enclosed by the elevations of Nos 38A and 73 and the significantly taller flank wall of 39 St James's Street.

14. Extensions A, B and C would increase the height of the rearmost section of No 73's flank wall by the equivalent of either two or three floors. I consider that raising No 73's flank wall by that extent would have the effect of significantly enclosing No 38A's garden, with the result that the existing limited outlook from this space would be unacceptably reduced.
15. Each of the extensions would variously have between one and three windows facing towards No 38A's garden. It is intended that those windows would be installed with obscured glazing, which would ensure that direct overlooking would not be possible. However, I consider the presence of those windows would give rise to the perception that the garden was being overlooked, given the position of the windows relative to No 38A's garden. That perception of being overlooked could give rise to a reduction in the use of the garden, which would be harmful to the living conditions of No 38A's occupiers.
16. The roof of No 38A has the potential to be used as an outdoor space, however, accessing this area requires the use of a loft ladder and given those access arrangements I am of the opinion that it has very limited utility as an outdoor space. I therefore consider that No 38A's roof would not provide an adequate alternative external space.
17. For the reasons given above I conclude that extensions A, B and C would all give rise to unacceptable harm to the living conditions of No 38A's occupiers due to the reduced outlook and a perceived loss of privacy. Extensions A, B and C would therefore conflict with Policies QD14 and QD27 of the Local Plan because they would give rise to the loss of amenity (harm to living conditions) for existing occupiers.

Other Matters

18. I recognise that the appellant company wishes to expand and this would create employment for up to ten additional employees as well as generating other economic benefits in the area. I also acknowledge that in terms of access to public transport facilities and other public services this is a suitable location for an expanded employment use. There would therefore be economic and social benefits associated with all three of the extensions. However, I consider those benefits to be outweighed by the harmful aspects of the extensions that I have identified.

Conclusions

19. For the reasons given above appeals A, B and C are dismissed.

Grahame Gould

INSPECTOR

Appeal Decision

Site visit made on 4 May 2017

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 19th May 2017

Appeal Ref: **APP/Q1445/W/16/3164388** **49 Brunswick Street West, Hove BN3 1EL**

- 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 Ralph Bellamy against the decision of Brighton and Hove City Council.
 - The application Ref BH2016/01753, dated 15 May 2016, was refused by notice dated 24 August 2016.
 - The development proposed is described as 'conversion of an existing auto-garage to a two bedroom dwelling, to include raising the existing roof height to create an upper storey for the property. The materials will match the existing as far as is possible, with the aesthetics of the existing building retained'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the development would preserve or enhance the character or appearance of the Brunswick Town Conservation Area (the CA);
 - the effect of the development on the living conditions for the occupiers of the dwelling, with particular regard to outlook, privacy and internal space;
 - the effect of the development on the living conditions of the occupiers of 39C Brunswick Terrace (No 39C), with particular regard to outlook and light; and
 - the effect of the development on the supply of employment floorspace.

Reasons

Character and Appearance

3. The development would involve the conversion of a single storey, vehicle repair workshop into a two bedroom chalet bungalow. To facilitate the building's conversion it is intended that its eaves and ridge heights would be increased by around one metre¹, with front and rear dormers being installed in the newly formed roof.

¹ Dimension taken from the appellants' grounds of appeal

4. Brunswick Street West comprises a mixture of residential and non-residential premises, including mews style properties² in its southern half. This street is situated within the middle of what is a mixed use CA. The development site (No 49) backs onto the grade 1 listed, terraced properties, in Brunswick Square.
5. No 49 has a utilitarian appearance, being of no particular architectural merit, and the conversion scheme seeks to improve the building's appearance by adopting a contemporary design approach. To that end the lead clad, flat roofed, wall type front dormer, would in relative terms have a heavy appearance, which would only in part be relieved by the incorporation of the virtually full width glazed doors and Juliet balcony. The rear dormer while being considerably smaller than the front one, would also have a very heavy appearance, accentuated by its squat proportions. Both of the dormers because of their width and the comparatively low angles of the building's roof planes would interrupt the simple lines of the new roof's hips. I therefore consider that the dormers would be poorly proportioned relative to the scale of the roof and that the resulting building would be of poor and incongruous appearance.
6. While the streetscene within Brunswick Street West exhibits considerable variation in terms of the scale, age and design of individual buildings, I consider that the proposed dormers, in particular, would have an appearance that would not be respectful of their surroundings. The roof alterations to No 49 would form part of the setting to the rear elevation of the grade 1 listed properties in Brunswick Square and because of the incongruity of those alterations I consider they would not preserve the setting of these important listed buildings.
7. For the reasons given above I therefore conclude that the development would neither preserve nor enhance the appearance of the CA. There would therefore be conflict with saved Policy HE6 of the Brighton and Hove Local Plan of 2005 (the Local Plan) and Policies CP12 and CP15 of the Brighton and Hove City Plan Part One of 2016 (the City Plan). That is because the design of the development would not conserve or enhance the built heritage of the area and it would not preserve the CA's appearance. There would also be conflict with Policy HE3 of the Local Plan because the design and siting of the altered building would not preserve the setting of the adjoining listed buildings.
8. Given I have found that the design of the alterations to No 49 would be unacceptable I also consider that section 7 (requiring good design) of the National Planning Policy Framework (the Framework) provides no support for the development. While the harm to the significance of the CA would be less than substantial when considered within the context of paragraphs 133 and 134 the Framework, I consider that there would be no public benefits to the CA that would outweigh the harm that would arise to it.

Living conditions for the occupiers of the development

9. The only possible outlook from the rear bedroom would be via its dormer window. That window would be of a very limited depth and it would have obscured glazing to safeguard privacy. The limited dimensions of the dormer

² ie properties originally constructed with stables or garages with residential accommodation above

window and the obscuring of its glazing would mean that this window would provide no meaningful outlook for the users of the rear bedroom. The application drawing and the application form clearly indicate that it is intended that the dwelling would have two bedrooms and on that basis I do not consider that the rear bedroom should be treated as a 'secondary bedroom', as has been submitted for the appellant. I therefore find that the absence of a reasonable level of outlook for the users of the rear bedroom would provide unacceptable living conditions for the occupiers of the dwelling.

10. Concern has been raised that the users of the ground floor living area would experience an unacceptable level of privacy because of the proximity of this room's expanse of glazing to the back edge of the highway. While the living area would be illuminated by a large glazed area it would be possible for privacy screening in the form of blinds, net curtains or shutters etc to be installed. It is quite common for properties to have living room windows that are situated at the back edge of pavements or carriageways, with the occupiers of such properties electing whether to install some form of screening. I therefore consider that there would be nothing particularly unusual about the ground floor living area's window. I am therefore not persuaded that the occupiers of the dwelling would necessarily experience any unacceptable loss of privacy.
11. There is disagreement as to whether the dwelling would provide an adequate amount of floorspace. As the Council does not have an adopted floorspace standard either pre or postdating 1 October 2015 the 'Technical housing standards – nationally described space standard' of March 2015 cannot be relied upon. However, as I have found that the dwelling's rear bedroom would be deficient in terms of its level of outlook, the adequacy or otherwise of the dwelling's internal floor area is not a decisive matter.
12. For the reasons given above I conclude that the dwelling's rear bedroom would provide an unacceptable level of outlook for its users, with the result that there would be harmful living conditions for the development's occupiers. The development would therefore be contrary to Policy QD27 of the Local Plan, because the occupiers of the dwelling would not be provided with an acceptable level of amenity, i.e. living conditions. There would also be conflict with the fourth core planning principle set out in paragraph 17 of the Framework because the development would not secure a good standard of amenity for its occupants.

Living conditions for the occupiers of No 39C

13. No 39C is a basement flat with a long depth floor plan. There are limited out opportunities from the interior of No 39C, not least because its front windows face directly onto a retaining wall supporting the pavement above. No 39C also has a small rear garden, which is highly enclosed, given the proximity of No 49 and the immediately neighbouring properties at Nos 47 and 51.
14. Although No 49's conversion would only involve a one metre increase in the building's height that change would nevertheless add to the sense of enclosure experienced by the occupiers of No 39C. I therefore consider that the resulting reduction in the outlook from No 39C's rear windows and garden would be harmful to the living conditions of the occupiers of that flat.

15. It is contended that the development would unacceptably reduce the receipt of daylight to the interior of No 39C. However, the rear of No 39C is already highly enclosed and I therefore consider that the increased height of No 49 would be unlikely to cause a significant reduction in the amount of light reaching No 39C's interior.
16. For the reasons given above I conclude that the development would be harmful to the living conditions of the occupiers of No 39C because of the loss of outlook they would experience. The development would therefore be in conflict with Policy QD27 of the Local Plan and the fourth core planning principle (paragraph 17 of the Framework) because the occupiers of No 39C would experience a loss of amenity (ie harm to their living conditions).

Employment Space

17. No 49 has a floor area of 30 square metres³ and is therefore a very small vehicle repair workshop, which I consider to be a Class B2 general industrial use rather than a Class B1c light industrial use. Policy EM11 of the Local Plan addresses the retention of mixed use mews and indicates that permission will not be granted for changes of use from industrial premises to residential unless ground floor employment space is retained. Policy CP3 of the City Plan addresses the provision of employment land for the duration of the City Plan and this policy's fifth criterion seeks to avoid the loss of unallocated Class B employment premises, unless it can be demonstrated that such premises are redundant and incapable of meeting the needs of an alternative Class B occupier. Policy CP3's supporting text explains that if a case for redundancy and/or unsuitability is to be advanced then evidence relating to matters such as the quality of the building, its accessibility and the premises' marketing should be submitted.
18. No 49 is currently occupied and no evidence relating to its marketing has been submitted. However, I saw the premises are not in a particularly good state of repair and, because of their size and the narrowness of the highway, I consider that they are not particularly well suited to vehicles manoeuvring in and out of them. I therefore consider that these premises would not be particularly suitable for use by a new Class B occupier. I also consider that the change of use of these very modestly sized premises would not undermine the Council's strategy for retaining and/or providing additional employment land. That is because the identified requirement for Class B space throughout the life of the City Plan has been put at 43,430 square metres⁴ and No 49's loss would have a minimal effect on the requirement.
19. I therefore conclude that the development would have an insignificant effect on the supply of employment floorspace and that the degree of conflict with Policy CP3's fifth criterion would not warrant permission being withheld.
20. Although conflict with Policy EM11 of the Local Plan has been cited, I consider this policy is not relevant in this instance. That is because I consider that No 49 is not a mews type property, given its single storey nature, and its siting in a section of Brunswick Street West that does not clearly exhibit the characteristics of a mews, unlike the southern half of this street.

³ Dimension taken from the Council's officer report

⁴ As referred to in paragraph 4.29 and Table 4 of the City Plan

Conclusions

21. I have found that the development would not cause an unacceptable loss of employment floorspace. However, the development would neither preserve nor enhance the appearance of the CA and it would cause unacceptable harm to its occupants' living conditions and those of the occupiers of No 39C. Given the harm I have identified I conclude that this would be an unsustainable form of development. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR

Appeal Decision

Site visit made on 9 May 2017

by **S J Papworth DipArch(Glos) RIBA**

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

Decision date: 19 May 2017

Appeal Ref: APP/Q1445/D/17/3172364
23 Tredcroft Road, Hove BN3 6UH

- 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 Mercer against the decision of Brighton & Hove City Council.
 - The application Ref BH2017/00221, dated 22 January 2017, was refused by notice dated 17 March 2017.
 - The development proposed is first floor rear extension and associated alterations.
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Decision

1. I dismiss the appeal.

Reasons

2. The main issue in this appeal is the effect of the proposal on the living conditions of neighbouring residential occupiers with particular regard to daylight and sunlight, and the visual effect on their outlook. Policy QD27 of the Brighton & Hove Local Plan seeks the protection of amenity and the supporting text refers to daylight, sunlight and outlook. Paragraph 56 of the National Planning Policy Framework states that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
 3. The present building results from a planning history that includes side and rear extensions, so that the rear part of the dwelling projects beyond the two storey part as a single storey section having a hidden flat roof with a false pitch around its outer edges. Part of this roof area is glazed and two windows look out onto it from the first floor, neither of which gives ready access to the roof.
 4. The Council draw particular attention to the relationship between the appeal building, and 8 Benett Drive, which although numbered in the adjoining road, has been built with its south-west facing wall and windows parallel to and somewhat above the side wall of the appeal dwelling. The difference in levels is accounted for partly with a retaining wall on the mutual boundary and partly through the slab level of number 8 being raised again relative to an area of patio between it and the boundary.
 5. The present arrangement of the neighbouring dwelling is that the kitchen window and door benefit from an open aspect to the south-west, the high roof with its rooms built in at number 23 being mainly to the south-east and although plainly visible, are not over-dominant in the view and do not presently
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- unduly adversely affect daylight, although there would be some shadowing effect due to the orientation. A large lounge-diner to the north-west end of the dwelling looks out over the flat roof and the rear garden to the appeal site. A television room on the far side of the kitchen was entered and from this less sensitive location, the present roof at number 23 was dominant in the outlook.
6. The proposed additional length of roof would place the outlook from, and light available to, the kitchen more akin to that experienced at present in the television room, and at this proximity, height and bulk, the adverse effect on the outlook from this more sensitive location would be harmful. The dining room window would also look out onto the proposed roof side-pitch and from a seat at the table this would appear a dominant feature, although the light reaching the room would be less affected due to the other windows in the lounge part, one facing north-west and unaffected by the proposal. In these considerations it is acknowledged that there is no right to a view, but solid built form that occupies a significant part of an outlook can cause harm in planning terms, and that is the case here.
 7. The garden to number 8 is small and mostly to the north-west of the dwelling, but this small size would make the area of patio between the two dwellings of more use than it might have been were the rear garden larger. That area of patio would be significantly adversely affected by the increased length of the high level roof, having regard to the differences in level being less than that for the main dwelling. There is reference to an extant permission to build in this area, but unless and until that occurs, it is the present arrangement that should be considered.
 8. Privacy has been referred to by respondents to the application, but whilst a view is available at present from a rooflight in a bedroom of number 23, the proposed new rooflights and glazing to the proposed French balcony are to be obscured, and this could be secured by condition were all else acceptable.
 9. In conclusion, the effect on the kitchen would be of harm to the outlook with the proposed roof appearing over-intrusive and there would be some loss of daylight. The effect on the light to the dining room would be less pronounced, but the outlook would be adversely affected when sat at the table, whilst the lounge would be still less affected. However, the effect on the lower patio in terms of daylight, sunlight and the visual dominance of the extended roof would be particularly acute, and in total, the effect on the living conditions of the neighbouring occupiers would be unacceptable and would fail the requirements of Policy QD27. The proposal does not reach the standard of design sought in the Framework and for the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR

Appeal Decision

Site visit made on 4 May 2017

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 22nd May 2017

Appeal Ref: APP/Q1445/W/16/3164217

Brighton Rock Cafe, Arch 302 Kiosk, Madeira Drive, Brighton, BN2 1PS

- 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 C Heal of CA Heal and Sons Amusements Limited against the decision of Brighton and Hove City Council.
 - The application Ref BH2016/02723, dated 20 July 2016, was refused by notice dated 20 October 2016.
 - The development proposed is extension and alteration to the existing kiosk building to provide a first floor level with servery at pavement height on Madeira Drive.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development would preserve or enhance the character or appearance of the East Cliff Conservation Area (the CA).

Reasons

3. The development would involve the construction of an additional storey to the 'Brighton Rock Café (the café), making the resulting building two storeys in height. The existing building is accessible from the lower (beach) level of Madeira Drive and forms part of a group of seafront kiosks.
4. The landward side of Madeira Drive comprises a pedestrian and cycle promenade and the vehicle carriageway, which collectively form a middle terrace level between the beach and Marine Parade, the main thoroughfare set at a higher level. The site is within the extensive mixed use CA, which includes the beach, the promenade and residential and commercial premises on and to the north of Marine Parade. The promenade dates from the late Georgian/early Victorian period¹.
5. The transition between Madeira Drive's promenade and beach levels is relatively uncluttered with, for the most part, only the railings and street lighting columns marking the extensive linear change in levels. The raising of the café so that it would be accessible at both pavement and beach levels would result in a building projecting above the promenade's level. The isolated nature of the projecting additional storey at the change of levels

¹ As explained in the Conservation Area Study and Enhancement Plan of 2002

- between the beach and promenade would leave this development with an appearance that would be uncharacteristic of the promenade's streetscene.
6. It has been submitted that the planning permissions recently granted for the replacement Volk's railway station and the new zip wire provide a justification for the café being extended in the way sought. However, the Volk's railway is a tourist attraction dating back to the Victorian period and serves its own unique beach side purpose. I therefore consider that the construction of the new station is not directly comparable with the café extension. The zip wire, while including a comparatively tall helter skelter type structure, will be a unique tourist and leisure attraction for this part of the city's seafront, which is likely to become a landmark in its own right because of its scale, rather like the former Brighton Wheel and the i360. I am therefore of the opinion that the extension of the café sought cannot be viewed as being comparable with the zip wire.
 7. I recognise that the café is in an area that the Council has identified as being in need of regeneration. However, the area's regeneration I would expect to be planned on a comprehensive basis and I consider that the appeal scheme would be a piecemeal form of development that would be disrespectful of the established pattern of development on the promenade. I also consider that the extension of the kiosk would only make a very modest contribution to the area's wider regeneration. The existing café, and its attendant signage, is of no particular architectural merit, and the development would result in this building's appearance being improved. However, I consider that the improvement in the building's appearance would not outweigh the harm to the promenade's appearance arising from this piecemeal development.
 8. While the new railway station and the zip wire will have their own cafés and it has been submitted that their operation might affect the café's viability, no financial evidence relating to this matter has been provided. I therefore attach very limited weight to this aspect of the appellant's case.
 9. I therefore conclude that the kiosk extension would neither preserve nor enhance the appearance of the CA. There would therefore be conflict with saved Policy HE6 of the Brighton and Hove Local Plan of 2005 and Policies CP12 and CP15 of the Brighton and Hove City Plan Part One of 2016. That is because the extension would not reflect the pattern of development or townscape in the area and would thus fail to preserve or enhance the CA's appearance. I also consider that there would be some conflict with the City Plan's policy for the seafront, Policy SA1, because the development would not contribute to the seafront's regeneration in an integrated and coordinated manner.
 10. The CA's character in land use terms would, however, be preserved because the development would be in keeping with the recreational and tourism activity in this heritage asset.
 11. The harm to the significance of the CA would be less than substantial when considered within the context of paragraphs 133 and 134 the National Planning Policy Framework. However, I am of the opinion that there would be no public benefits to the CA that would outweigh the harm to this heritage asset I have identified.

Conclusions

12. I have found that the extension would neither preserve nor enhance the appearance of the CA. While there would be some economic benefits associated with this development, I find those benefits to be outweighed by the harm to the CA I have identified. The harm that I have identified could not be overcome by the imposition of reasonable planning conditions and I therefore conclude that this would be an unsustainable form of development. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR

