




Brighton & Hove  
City Council

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>15 August 2018</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Morgan, Morris and O'Quinn  <b>Co-opted Members:</b> Conservation Advisory Group Representative
Contact:	<b>Tom McColgan</b> Democratic Services Officer 01273 290569 planning.committee@brighton-hove.gov.uk

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## AGENDA

### 24 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.*

### 25 MINUTES OF THE PREVIOUS MEETING

1 - 32

Minutes of the meeting held on 18 July 2018 (copy attached)

### 26 CHAIR'S COMMUNICATIONS

## PLANNING COMMITTEE

### 27 PUBLIC QUESTIONS 33 - 34

**Written Questions:** to receive any questions submitted by 12 noon on 9 August 2018.

### 28 DEED OF VARIATION TO S106 LEGAL AGREEMENT RELATING TO BH2015/02917 - 121-123 DAVIGDOR ROAD, HOVE 35 - 38

Report of Executive Director, Economy, Environment and Culture

### 29 DEED OF VARIATION TO S106 LEGAL AGREEMENT RELATING TO BH2017/01083 - FORMER CITY COLLEGE, 87 PRESTON ROAD, BRIGHTON 39 - 64

Report of Executive Director, Economy, Environment and Culture

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

### 31 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 BH2018/01137 - 76-79 & 80 Buckingham Road, Brighton - Full Planning 65 - 92

Partial demolition of no. 80 Buckingham Road erection of a five storey building over basement including roof accommodation to create 20no. dwelling units (C3) and community use unit (D1). Conversion of nos. 76-79 Buckingham Road to provide 14no. dwelling units (C3) with associated car parking, cycle parking, landscaping and service provision.

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

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

### B BH2018/01181 - Preston Barracks, Mithras House, Watts Building, Lewes Road, Brighton - Reserved Matters 93 - 110

Watts Site: Reserved matters application pursuant to outline permission BH2017/00492 for approval of layout, scale and appearance relating to the University's proposed Business School and linked canopy, forming defined site parcels 1 and 2 respectively.

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

*Ward Affected: Hollingdean & Stanmer;  
Moulsecoomb &  
Bevendean*

## PLANNING COMMITTEE

### MINOR APPLICATIONS

- C BH2017/04113 - 64 St James's Street, Brighton - Full Planning 111 - 122**  
Part demolition of existing building. Erection of three storey extension to front elevation and creation of additional storey to rear elevation to facilitate enlargement of studio apartment to two bedroom apartment and associated works.  
**RECOMMENDATION - GRANT**  
*Ward Affected: Queen's Park*
- D BH2017/03648 - 7 Howard Terrace, Brighton - Full Planning 123 - 140**  
Change of use and part demolition of existing storage buildings (B8) to form of 1x one bed flat, 1x two bed flat, 2x three bedroom houses, cycle storage and associated works.  
**RECOMMENDATION - GRANT**  
*Ward Affected: St Peter's & North Laine*
- E BH2018/00081 - 51 Woodland Avenue, Hove - Householder Planning Consent 141 - 152**  
Demolition of single storey rear extension. Erection of a part one part two storey rear extension, single storey side extension and associated works.  
**RECOMMENDATION - GRANT**  
*Ward Affected: Hove Park*
- F BH2017/00574 - 80A Stoneham Road Hove - Full Planning 153 - 168**  
Formation of third floor to form 2no bedroom flat incorporating terrace and associated works.  
**RECOMMENDATION - GRANT**  
*Ward Affected: Wish*
- G BH2018/00329 - 67 Falmer Road, Rottingdean - Removal or Variation of Condition 169 - 184**  
Application for variation of condition 2 of application BH2015/02049 allowed on appeal (Demolition of existing house and garage and erection of 9no four bedroom houses) to permit amendments to the approved drawings including landscaping, elevations and boundary treatments.  
**RECOMMENDATION - GRANT**  
*Ward Affected: Rottingdean Coastal*

## PLANNING COMMITTEE

- H BH2018/00972 - Wickenden Garage, Scott Road, Hove - Full Planning 185 - 196**  
Formation of 1no two bedroom flat (C3) on top of existing garage (B1).  
**RECOMMENDATION - REFUSE**  
*Ward Affected: Wish*
- I BH2018/01545 - Land adjacent 7 Belle Vue Cottages, Brighton - Outline Application All Matters Reserved 197 - 210**  
Outline application with all matters reserved for the erection of 1no two storey dwelling (C3) to adjoin existing dwelling at 7 Belle Vue Cottages.  
**RECOMMENDATION - GRANT**  
*Ward Affected: Moulsecoomb & Bevendean*
- J BH2018/01445 - Hove Rugby Football Club, Hove Recreation Ground, Shirley Drive - Full Planning 211 - 220**  
Erection of single storey side and rear extension incorporating formation of first floor side balcony.  
**RECOMMENDATION - GRANT**  
*Ward Affected: Hove Park*
- K BH2018/01645 - 7 Marine Close, Saltdean - Householder Planning Consent 221 - 228**  
Erection of two storey side extension and single storey rear extension. Roof alterations including relocating dormer and installation of rooflights and revised fenestration.  
**RECOMMENDATION - GRANT**  
*Ward Affected: Rottingdean Coastal*
- L BH2018/00316 - 15 Twyford Road, Brighton - Full Planning 229 - 240**  
Change of Use from 3 bedroom single dwelling (C3) to a single dwelling or a 6 bedroom House in Multiple Occupation (C3/C4) with alterations to fenestration.  
**RECOMMENDATION - GRANT**  
*Ward Affected: Hollingdean & Stanmer*

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

## PLANNING COMMITTEE

### INFORMATION ITEMS

- 33 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS** **241 - 244**  
(copy attached).
- 34 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE** **245 - 250**  
(copy attached).
- 35 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES** **251 - 252**  
(copy attached).
- 36 APPEAL DECISIONS** **253 - 312**  
(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>

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## PLANNING COMMITTEE

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

### **FURTHER INFORMATION**

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email [planning.committee@brighton-hove.gov.uk](mailto:planning.committee@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk).

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**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**1.00pm 18 JULY 2018**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Morgan, Morris and Platts

**Co-opted Members:** Mr Roger Amerena (Conservation Advisory Group)

**Officers in Attendance:** Liz Hobden, Head of Planning; Paul Vidler, Planning Manager (East); Maria Seale, Principal Planning Officer; Helen Gregory, Principal Planning Officer (Planning Policy); Robert Davidson, Principal Planning Officer (Planning Policy); Gareth Giles, Principal Planning Officer; Chris Swain, Principal Planning Officer; Jonathan Puplett, Principal Planning Officer; Sarah Collins, Principal Planning Officer; Mick Anson, Principal Planning Officer; Emma Kumar, Empty Property Officer, Housing Strategy Team; Marcus Brooke, Arboriculturist; David Farnham, Development and Transport Assessment Manager; Hilary Woodward, Senior Solicitor; Penny Jennings, Democratic Services Officer and Tom McColgan, Democratic Services Officer.

**PART ONE**

**12 PROCEDURAL BUSINESS**

**Filming of Meeting by Latest TV**

Before proceeding to the formal business of the meeting, the Chair, Councillor Cattell, explained that a request had been received from "Latest TV" to film/record the meeting. In line with agreed Council policy this would be permitted provided it did not impede the conduct of the meeting. The meeting was being recorded for the purpose of the Council's own records and would as always be available for live viewing and for subsequent repeat viewing once archived.

**12a Declarations of substitutes**

12.1 Councillor Platts confirmed that she was attending in substitution for Councillor O'Quinn.

**12b Declarations of interests**

- 12.2 The Chair, Councillor Cattell referred to the fact she had been lobbied but had expressed no opinion in respect of applications A, BH2018/00340, former Amex House, Edward Street, Brighton; D, BH2017/02869, 10 Shirley Drive, Hove and K, BH2017/04070, 39 Dyke Road Avenue, Hove.
- 12.2 Councillor Morgan stated that in his previous capacity as Leader of the Council he had met with and been briefed by developers in respect of an earlier application in respect of application A, BH20018/00340, Former Amex Hose, Edward Street, Brighton. The current application had not been discussed and he had not expressed a view and would therefore remain present during its consideration and the debate and decision making process.
- 12.2 Councillor C Theobald referred to application D BH2018/00248, Patcham High School, Ladies Mile Road, Brighton. As she had been co-signatory to the letter in support of the scheme (reproduced at page 163 of the agenda) submitted by all of the Local Ward Councillors she would withdraw from the meeting during consideration of the application and would take no part in the debate or decision making process.
- 12.3 Councillor Miller declared an interest in respect of application L, BH2017/03830, 19 Shirley Drive, Hove. He had become aware on arrival at the meeting that he was acquainted with a neighbouring resident. He had however, not determined the application remained of a neutral mind and would therefore remain present during consideration and determination of the application.
- 12.4 Councillor Gilbey, declared an interest in application C, BH2017/02869, 10 Shirley Drive, Hove, she had become aware on arrival at the meeting that she was acquainted with the objector who was speaking having worked with him in the past as a colleague at Portslade Community College she had however, not determined the application remained of a neutral mind and would therefore remain present during consideration and determination of the application.
- 12.5 Councillor Inkpin-Leissner declared a prejudicial interest in respect of application P, BH2018/00319, 12 Twyford Road, Brighton. He had written a letter in his capacity as a Local Ward Councillor setting out his own views and those of local residents who objected to the proposal and would therefore withdraw from the meeting during consideration of that application and would take no part in its consideration or the debate and decision making process.

### **12c Exclusion of the press and public**

- 12.6 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.
- 12.7 **RESOLVED** - That the public are not excluded from any item of business on the agenda.

**12d Use of mobile phones and tablets**

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

**13 MINUTES OF THE PREVIOUS MEETING**

- 13.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 6 June 2018 as a correct record.

**14 CHAIR'S COMMUNICATIONS**

- 14.1 There were none.

**15 PUBLIC QUESTIONS**

- 15.1 There were none.

**16 REQUEST TO VARY SECTION 106 AGREEMENT, BAPTIST TABERNACLE, MONTPELIER PLACE, BRIGHTON**

- 16.1 The Committee considered a report of the Executive Director Economy, Environment and Culture detailing a request which had been received to vary the Heads of Terms of a s106 Agreement signed in order to amend the tenure of the affordable housing to be secured on site.
- 16.2 The Principal Planning Officer, Gareth Giles, introduced the report and explained that it was requested that the proposed variation to the Heads of Terms be agreed in order to amend the affordable housing provision proposed on the site in order to secure 1x Affordable Rent (wheelchair) unit (15) and 4x Shared Ownership units (16, 17, 18 and 19). It was noted that developer had written to the Council requesting that, following negotiation with a Registered Provider (RP), the affordable housing was secured on site with the tenure adjusted to 1x Affordable Rent (wheelchair) unit and 4x Shared Ownership, the same five units as the original application.
- 16.3 Given that the RP had made an offer, the Local Planning Authority preference was to accept that this adjusted on-site provision rather than a commuted sum as financial contributions in lieu were only considered where options for on-site provision had been exhausted. Having liaised with the Housing Strategy Team the Local Planning Authority was satisfied that the affordable housing provision secured on site with the tenure adjusted as proposed in the A106 Deed of Variation was an acceptable alternative to the scheme previously agreed by the Planning Committee and could be considered to comply with the development plan.
- 16.4 A vote was taken and the Members of the Committee voted unanimously that the proposed Heads of Terms be varied as recommended.
- 16.5 **RESOLVED** - That the proposed variation to the Heads of Terms to be agreed so that the affordable housing provision to be secured on site with the tenure amended to 1x

Affordable Rent (wheelchair) unit (15) and 4x shared ownership units (16, 17, 18 and 19), be approved.

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

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

Application:	Requested by:
BH2017/04113, 64 St James' Street, Brighton	Councillor C Theobald
BH2017/03648, 7 Howard Terrace, Brighton	Councillor Hyde
BH2018/00081, 51 Woodland Avenue, Hove	Councillor Bennett

**18 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

**MAJOR APPLICATIONS**

**A BH2018/00340, Former Amex House, Edward Street, Brighton- Full Planning**

Erection of a mixed use development to provide 168no residential dwellings (C3), 16,684sqm (GEA) of commercial floorspace (B1), 1,840 sqm (GEA) of ancillary plant/storage and 1,080 sqm (GEA) flexible floorspace comprising commercial and/or retail and/or residential communal space and/or non-residential institution (B1, A1, A3, C3, and D1) across lower ground and 4 and 8 storeys above ground, with associated parking, hard and soft landscaping and access.

**Officer Presentation**

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Mick Anson, introduced the application and gave a presentation by reference to site plans, elevational drawings, photographs and floor plans. It was explained that the main considerations in determining this application were the principle of the development of a mixed scheme of B1a) offices and residential units together with a flexible mix of retail, small business units and/or potentially Class D1 community uses. The quantum of affordable housing provision proposed had been assessed against a Viability Assessment submitted with the application. The density, building heights, design and appearance of the development together with the layout of open space and landscaping within the development had been assessed. The wider impacts of the proposals on the townscape and the impact on heritage assets within the city was also a key consideration. Key amenity and sustainability characteristics had also been assessed including daylight/sunlight and potential noise impacts, neighbour impacts, sustainability issues including transport impacts, microclimate, air quality and ecology The site fell within the Eastern Road and Edward Street strategic development area and formed part of a larger site allocation

which included the adjacent Job Centre identified within the Edward Street Quarter. It was also important to note that the residential requirement stated referred to a minimum rather than a maximum. The site was considered to be primarily an employment site since its location in proximity to other key employment sites and buildings lent itself to that use. There was recognition that the area was mixed in character and that a residential element would also enable a viable scheme to come forward to regenerate this site and area. The brief included an indicative site layout for accommodating the quantum of development and the proposed scheme had generally followed the guidance given on site layout and land uses. Reference was also made to the amendments and comments set out in the Late/Additional Representations List. The wider impacts of the proposals on the townscape and the impact on heritage assets within the city had also formed part of the key considerations in assessing this application. Key amenity and sustainability characteristics had also been assessed including daylight/sunlight and potential noise impacts, the microclimate of the site, air quality and ecology. The Principal Planning Officer referred to information submissions shown on the Planning Register which had been queried in instances confirming that where there had been any doubt as to the understanding/intent these had been removed from the register.

- (3) A group of local residents had submitted an alternative neighbourhood plan which it was considered would meet City plan requirements. The Local Planning Authority was however required to determine the development proposal in front of it. The residents' plan gave no indication of floor space of the residential units, whilst it appeared that it would not provide minimum commercial floor space required, nor comply with adopted development Brief which had been subject to wider consultation. A Financial Viability Appraisal had been undertaken by the applicant and a Statement of Common Ground between the applicants and the District Valuer had been placed on the Planning Register as a public document.
- (4) The Principal Planning Officer, Planning Policy, Helen Gregory, explained that in addition to the considerations referred to in the report it also needed to be noted that the City Plan Part 1 Inspector's report had been received in February 2016. The Inspector's conclusions on housing had been to agree a target of 13,200 new homes for the city until 2030 as a minimum requirement and that it was against that that the city's five year housing land supply position would be assessed annually. The Council was keen to see the re-development of this vacant site as part of redevelopment of the Edward Street Quarter, the emphasis of policy for which was for employment led development to strengthen the city's economy in order to meet the council's priorities for high quality job creation and to support the city's growth potential. The principle of mixed use re-development was in accordance with policy and was in line with the Edward Street Planning Brief. On balance for the reasons set out in the report it was considered that the proposed dwelling mix for affordable housing would be acceptable.
- (5) The financial viability appraisal undertaken by the applicant had calculated that 20% was the maximum amount of affordable housing which could be provided on the site without making the development unviable which equated to 33 units; with the tenure mix of affordable housing as 55% affordable rent and 45% shared ownership. This appraisal had been independently verified by the District Valuer and was therefore accepted as being in accordance with the requirements of Policy CP20.

- (6) It was recommended that the application was approved “Minded to Grant” save that should the s106 Planning Obligation, conditions and informatives not be agreed by 7 November 2018 that the Head of Planning be authorised to refuse permission for the reasons set out in section 9 of the submitted report.

### Public Speakers

- (7) Mr Peacock spoke on behalf of neighbouring residents setting out their objections to the proposed scheme. Mr Peacock explained that whilst local residents were not averse to the principle of development of the site, the proposals put forward were not appropriate and would have a highly detrimental impact on neighbouring residents of White Street in particular, were not acceptable and failed to comply with the Development Brief on height and density and was contrary to a number of the Council’s own planning policies, namely CP20 (affordable housing), Strategic Plan Objective SO9, DA5 and SO12. Residents had put together their own Development Brief at the suggestion of their own local MP, Lloyd-Russell-Moyle. The developer had failed to consult properly with residents and had also provided incorrect/misleading information in some instances. Mr Peacock was accompanied by Mr Hart and Mr Hurst who were in attendance to assist in answering questions or to respond to any points of clarification which members might have.
- (8) In answer to questions by Councillor Mac Cafferty, Mr Hart reiterated the information which he had submitted previously to members and officers. Significant numbers of detailed objections had been received in response to the proposals. The consultation process had been flawed and had not been as thorough as it should have been. Information provided regarding deadlines by which information needed to be submitted had been conflicting and confusing, had it not been so the level of objections and information submitted in support of them would have been even higher, for example residents had been led to believe that they had missed a key deadline to comment on the application when that had not in fact been the case. Mr Hart considered that information contained in the officer report was misleading. He was aware that a number of the letters which appeared to indicate support for the proposed scheme had been based on misleading information which had been provided by the developer. Mr Hart and other neighbouring objectors contended that the consultation process had been flawed and that this application should be refused to enable that process to be recommenced properly which would enable a scheme which was more sympathetic to and in keeping with the neighbouring street scene to be brought forward. What was currently on the table represented an overdevelopment in terms of its height and massing.
- (9) The Planning Manager, Paul Vidler, confirmed that the Council’s own consultation process had been carried out in accordance with national guidance and its own established processes. Councillor Morris sought confirmation from Mr Peacock regarding whether/what amendments could be made to the scheme as presented which would make it more acceptable to residents. The Legal Adviser stated however, that the Committee needed to determine the application before them as presented. In answer to further questions, the Legal Adviser to the Committee, Hilary Woodward, referred to the fact that the Ovingdean appeal inspector had found that the Council did not have a five year housing land supply and that accordingly increased weight would need to be given to housing delivery and quoted from paragraph 14 of the NPPF which

stated that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- (10) Mr Ward and Mr Wade (Director of First Base) spoke on behalf of the applicants in support of their application. Mr Wade stated that both the consultation process and the scheme as before the Committee for determination had been carried out in line with agreed policy. The consultation process had been extensive with pop-in sessions held in order to explain the scheme and extensive leafleting of the neighbouring residential area.
- (11) Councillor Platts referred to the draft planning brief and sought clarification from Mr Peacock regarding the brief against which this application had been set and the manner in which objectors considered this application had departed from that. Mr Hart stated that he was referring to the adopted brief. Councillor Hyde enquired regarding residents' understanding of the scope of the original brief.
- (12) Councillor Mac Cafferty sought confirmation from the applicants regarding their failure to provide 40% affordable housing and it was explained that this would not be financially viable for the reasons set out in the report and that the District Valuer had concurred in that view. Councillor Mac Cafferty also sought clarification of the rationale for extending the frontage of the scheme up to the footway when in his view it would have been more logical to have an open space in front of those blocks. It was explained that this approach had been adopted in order to activate and maximise the frontage of the site.

#### **Questions for Officers**

- (13) Councillor Mac Cafferty enquired why a contribution towards school places had not been required towards school. In response it was explained that whilst a contribution would not be sought towards primary education places, a contribution would be sought towards the cost of secondary provision should the development proceed. Councillor Mac Cafferty also enquired regarding the location of obscured glazing as he had understood that it had been agreed that this would be provided to some units and in respect of the loss of trees, their species and location and whether they were to be replaced with mature/semi mature specimens.
- (14) It was explained that it was proposed that semi mature trees rather than saplings would be used, smaller trees grew more quickly and should be sufficiently hardy provided that they were planted in a trench of sufficient depth. Concerns were expressed regarding the potential for new planting to survive should it be planted close to the footway or where it would be more susceptible to inclement conditions.
- (15) Councillor Morris enquired regarding rights of way/access across the site, access arrangements and whether and where there would be shared pedestrian/vehicular access or highway arrangements. The Development and Transport Assessment Manager, David Farnham, confirmed that the main access to the site would be from John Street and that although there would be several other access points to the site.
- (16) Councillor Miller asked for information in respect of materials to be used for the balcony terraces and whether they would be screened. Also, in respect of the location of the affordable rental and shared ownership units within the development.

- (17) Councillor Hyde enquired regarding the location of the proposed disabled parking spaces seeking assurance on their accessibility. Councillor Hyde also enquired regarding loss of light and overshadowing/overlooking to properties located in White Street and Mighell Street and relation to any mitigation measures proposed. The Principal Planning Officer, Mick Anson stated that whilst it was acknowledged that there would be some loss of light the scheme had been considered against all other impacts and its benefits.
- (18) Mr Amerana, CAG, referred to the height and massing of the proposed development and to the Heritage comments received seeking clarification of comments made in respect of amendments made to the scheme and views from/across the site. The Principal Planning Officer confirmed that the opportunity to link the new through street and square to the existing Dorset Gardens Peace Park was welcomed as it would create a sense of continuous public open space and a green route and that overall the scheme would provide a mix of uses with good quality architecture and public realm, would enhance views from Dorset Gardens, that identified heritage assets would be preserved and that no harm to them had been identified.
- (19) Councillor Gilbey enquired regarding wheelchair access to the site, access arrangements from Mighell Street. In answer to questions as to whether it was proposed that a community space/rooms would be provided on site it was confirmed that, it was not.

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

- (20) Councillor Littman stated that he considered it regrettable that the level of affordable housing fell below the 40% required. Overall, the proposed scheme ticked a number of boxes, he did however have concerns regarding whether the planting to be provided would be sufficiently robust enquiring whether it would be possible to ensure that the trees were replaced (as necessary) for an agreed period e.g., five years and it was confirmed that was a proposed condition of grant (condition 40).
- (21) Councillor Inkpin-Leissner stated he considered that whilst there was much to commend the scheme, not least, that it would provide much needed housing he was concerned about the height and bulk of the proposed scheme and the negative impact it would have on would have on residents of White Street.
- (22) Councillor Morris stated that whilst welcoming some elements of the scheme for example the green space linkage with the Dorset Gardens Peace Garden, overall, he was very disappointed with the design of the scheme which he considered was unimaginative, with a colour palette proposed for materials which was discordant. Councillor Morris also had concerns regarding the detrimental impact the scheme would have on White Street by virtue of its height and close proximity.
- (23) Councillor C Theobald stated that she had concerns that the level of parking proposed on-site was insufficient, although generally she considered the scheme to be acceptable.



- (24) Councillor Hyde concurred in that view stating that she considered the scheme to be of a good design and made good use of a brownfield site although she was in agreement that it would have been preferable had it been possible to provide more parking on site and had there been no detrimental impact on White Street.
- (25) Councillor Mac Cafferty stated that whilst the scheme had many things to commend it the issues to be considered were complex. In his view there were departures from the original 2013 planning brief and the consultation process had been flawed. In his view local residents had not been properly consulted, elements of the scheme would have a disproportionate impact on residents of White Street in particular and he did not therefore feel able to support the application.
- (26) Councillor Platts also expressed concerns regarding the consultation process which had taken place, the impact on White Street residents and the broader impact on the neighbouring street scene and in respect of proportion of rental/affordable housing to be provided and on those grounds found herself unable to vote in favour of the scheme.
- (27) Councillor Gilbey was in agreement that the scheme was complex and had concerns in relation to some aspects of it whilst acknowledging the housing units and office space which would be provided.
- (28) Councillors Bennett and Miller expressed support for the scheme whilst Councillor Bennett sought confirmation regarding measures to be undertaken to ensure that light pollution/spillage did not occur in the evening. It was confirmed that the office accommodation would be fitted with motion sensor lighting.
- (29) Councillor Morgan fully supported the scheme, referring to the economic needs of the city which it would help to address.
- (30) The Chair, Councillor Cattell, stated that she considered that the scheme provided a good mix of uses with an active frontage and that the materials proposed were of good quality and durable. The scheme would in her view provide an exciting space which would also provide a huge boost to the local economy, she would be voting in support of the officer recommendation.
- (31) A vote was taken and on a vote of 8 to 4 Minded to Grant planning permission was given.

18.1 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 Planning Obligation and the conditions and informatives as set out in the report **SAVE THAT** should the s106 Planning Obligation not be completed on or before 7 November 2018, the Head of Planning be authorised to refuse planning permission for the reasons set out in section 10 of the report.

**B BH2018/00689, Preston Barracks, Mithras House, Watts Building, Lewes Road, Brighton- Reserved Matters**

Reserved matters application pursuant to outline permission BH2017/00492 for approval of layout, scale and appearance relating to the University's proposed multi-storey car park and access road, forming defined site parcels 3 and 4 respectively.

### **Officer Presentation**

- (1) The Principal Planning Officer, Sarah Collins, introduced the application and gave a presentation by reference to site plans, elevational drawings, photographs and floor plans. It was noted that outline consent BH2017/00492 had established the approximate size of the MSCP through the parameter plans, the maximum number of car parking spaces and the minimum number of disabled parking spaces, the minimum number of active and passive electric vehicle charging spaces, the minimum number of motorcycle spaces and the position and layout of the access road up to the western edge of the Business School Square. This Reserved Matters application did not extend beyond the parameter plans, complied with those conditions and maintained the position and layout of the access road up to the western edge of Business School Square. The main considerations in determining this application related to: the layout and design of the access road, internal layout of the MSCP, movement of vehicles within the car park and number, location and allocation of vehicle spaces; design, layout, ecological impact, function and appearance of the route from Saunders Park View northwards along the SNCI to North of the Watt Building and retention of the existing roundabout and proposed changes to the landscaping, layout and design function, ecological merits and appearance (HW9). Reference was also made to the amendments and comments set out in the Late/Additional Representations List.
- (2) It was noted the new proposals offered some improvements to the previously secure arrangements. Whilst some of the changes would result in less satisfactory arrangements for some pedestrians, this would be countered by benefits to the ecology of the site by removing the approved access road between the MSCP and the Watts Bank. The Transport Officer had accepted that many of the raised concerns could be addressed by more detailed submissions subject to conditions. Issues arising from the proposed changes had been mitigated and it was considered were justified in view of the significant topographical constraints of the site which would be improved as a result of these proposals. It was also acknowledged that the approved scheme also included various locations where this was also likely to be the case. This application was therefore recommended minded to approve.

### **Questions for Officers**

- (3) Councillor Morris asked for clarification regarding the precise location of the green wall and the distance between it and the neighbouring buildings. In answer to further questions it was confirmed that the planting would be provided so that it would both hung down and grow up, also that the planting provided was expected to survive, arrangements were in place to ensure maintenance and replacement for a five year period.
- (4) Councillors Hyde and Miller enquired regarding proposed Condition 3 relating to the hours during which loading and unloading of vehicles was permitted enquiring whether the exceptions permitted would be sufficiently flexible. The Development and Transport

Assessment Manager, David Farnham, referred to the amendments set out in the Additional/Late Representations List.

- (5) Councillor Morris referred to the areas of the site where there were shared access arrangements. The rationale and location of these was detailed and Councillor Morris asked whether it would be possible to provide additional markings and signage alerting pedestrians. It was agreed that could be done and that officers would take the necessary steps and agree the final wording.

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

- (6) Councillor Platts expressed concern regarding the level of parking proposed on the site particularly in relation to the comments received in relation to the number and location of the blue badge disabled parking bays. It was explained that those comments related to the original outline application. Overall the number of spaces remained consistent with that application with a slight uplift to the number of spaces originally approved, in consequence of changes which had been made to the internal layout.
- (7) Councillor Platts also sought clarification regarding the Equalities Statement and the criteria used in compiling it. It was explained that this was outlined in this report having been set out in detail in the earlier report when the Committee had approved the scheme.
- (8) Councillor Mac Cafferty sought further information in relation to the “gaps” to be maintained between buildings on site and the manner in which parking arrangements had been consolidated across the site overall in order to limit the potential for overspill parking into neighbouring roads. In answer to further questions it was explained that materials would be brought forward for consultation with members attending Chair’s Briefing. Councillor Mac Cafferty stated that he welcomed the scheme whilst considering it important to press for greater detail in relation to the planting to be used for the “green” wall and to ensure that this properly maintained going forward.
- (9) In answer to questions by Councillor Morris in respect of arrangements to provide electric charging points it was explained that increases in the number of these being required was being actively pursued in relation to major developments across the city.
- (10) Councillor Littman whilst supporting the proposals considered that greater capacity could have been built into the scheme.
- (11) Councillor C Theobald stated that she hoped, bearing in mind that not all of the fully accessible units were at ground floor level, that suitable contingency arrangements were in place in the event of lift failure.
- (12) Councillor Gilbey welcomed the parking arrangements proposed for the site especially the disabled arrangements in proximity to the Cockcroft Building which were similar to those in place at the University of Sussex and with which she was familiar.
- (13) Councillor Inkipin-Leissner stated that he fully supported the layout and scale proposed in relation to the multi-storey car park and associated access arrangements.

- (14) Councillor Hyde also indicated her support for the proposals and for the colour palette proposed.
- (15) A vote was taken and the 12 members present when the vote was taken voted unanimously that Minded to Grant approval be given.

18.2 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO APPROVE** reserved matters subject to a deed of variation to the s106 agreement relating to application BH2017/00492 to remove reference to the cycle route from the obligation (schedule 1 para 16) for a Walkways Agreement, proposed amendments set out in the Late/Additional Representations List and to the Conditions and Informatives also set out in the report. In addition it was also agreed to delete Condition 8 and to amend Conditions 2 and 13.

### **C BH2017/02869,10 Shirley Drive, Hove- Outline Planning Application**

Outline application with some matters reserved for the demolition of existing house and erection of 10 no flats with associated parking.

#### **Officer Presentation**

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Gareth Giles, introduced the report and gave a presentation by reference to site plans, elevational drawings, photographs and floor plans. It was noted that the application related to a substantial detached property located on the western side of Shirley Drive at the junction of the Drove way with the site itself sloping down from east to west. Matters of appearance and landscaping were reserved and therefore the considerations in determining this application related to access, layout and scale of the 10 flats proposed (4x one bed, 5x two bed and 1x three bed) with associated parking on the site. Reserved matters of design and landscaping had not been considered in detail other than to confirm that the quantum of development sought could be realistically accommodated on site. The DVS had been approached and had concluded that the scheme was unviable and could not provide an Affordable Housing contribution. The property most likely to be impacted would be 12 Shirley Drive on the adjoining site to the North. Although the views would be identical to the existing situation it was acknowledged that the increase in the number of units could result in a real and perceived intensification of overlooking of neighbouring properties.
- (3) In view of the distances involved and good size of the neighbouring gardens it was considered that the development could be designed to limit impact and given that the proposed development would not be dissimilar in terms of footprint, scale and height to the existing building it was considered that the proposal would be unlikely to cause significant harm to neighbouring amenity through loss of light, outlook or overbearing impact, in view of the amount of construction proposed in close proximity to local residents a Demolition Management Plan and Construction Environmental

Management Plan were recommended via condition and on that basis minded to grant planning permission was recommended.

### **Public Speakers**

- (4) Mr Jungius spoke on behalf of neighbouring residents setting out their objections to the scheme. He stated that the application was out of character with the surrounding area which was dominated by single occupancy housing. The house could be converted to flats within the current external configuration as had been done in other instances nearby but the bulk of the structure proposed in the application would dwarf the nearby buildings. There would also be a significant loss of amenity to the immediate neighbour caused by overlooking and the additional parking and associated vehicle access at the rear of the building. Mr Jungius felt that the impact of the development would be unacceptable especially in light of the fact that the Applicant did not intend to provide any affordable housing.
- (5) Councillor Brown spoke in her capacity as a Local Ward Councillor setting out her objections to the scheme. She stated that if permission were granted the application would set a precedent for more single occupant homes in the area to be converted into blocks of flats. This would completely change the character of the neighbourhood. Councillor Brown was also concerned that the larger envelope proposed would lead to a significant loss of light for the neighbouring houses as well as cause overlooking. The work to build the new proposed access at 3m below street level may also cause damage to the foundations of 12 Shirley Drive. Councillor Brown felt that there were too many unresolved issues with the application for the Committee to be able to grant permission.
- (6) Mr Bateman spoke on behalf of the applicant in support of their application. He stated that the application represented a detached house replacing a detached house. There had been no professional objections to the application and Hove Civic Society had supported it. The property was currently a seven bedroom single occupancy house which did not match demand in the city. The application proposed ten new flats of between one and three bedrooms which reflected demand in the city. The Application would create a mixed community in the road an outcome which was considered desirable by Planning Policy. The proposal was broadly the same size and bulk as the existing property and construction would not cause any damage to neighbouring buildings as the access would be utilising an existing basement.
- (7) In response to Councillor Miller, Mr Batemen stated that it was not financially viable to provide affordable housing as part of the scheme, a view which had been supported by the District Valuer. He also stated that converting the existing structure would increase the cost of construction and reduce the number of units and so would also not allow for any units of affordable housing.

### **Questions for Officers**

- (8) In response to Councillor Hyde, the Planning Officer stated that the proposed outline of the new structure would be substantially wider to the south and slightly wider to the north. The overall width of the proposed block was broadly within the outline of the existing structure.

- (9) In response to Councillor Miller, the Planning Officer stated that there was no requirement for the new development to stay within the existing envelope. The Planning Officer's assessment of the proposal was that the indicative outline sat comfortably within that of the existing house.
- (10) In response to Councillors Inkpin-Leissner and Hyde, the Planning Officer stated that any designs presented were just to demonstrate the proposed size and bulk of the scheme and that Officers would provide further advice to the Applicants to encourage them to bring forward a design that was sympathetic to the surrounding area. The Planning Officer also stated that the design would be considered by Committee as a separate application.
- (11) In response to Councillor Gilbey, the Planning Officer stated that the proposed building would remain on the existing building line but would extend further into the back garden.
- (12) Councillor Bennett noted that the proposals significantly reduced the outside space and asked officers if there was a minimum amount of outdoor amenity that would be expected for ten units.
- (13) The Planning Officer stated that the existing house did not have a large amount of garden space and that additional outside amenity space could be provided by balconies and terraces which would be a consideration when designs were brought forward.
- (14) In response to Councillor Theobald, the Planning Officer stated that the proposal was the same height as the existing structure.

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

- (15) Councillor Bennett stated that she was not minded to support the officer's recommendations. The application proposed a modern block in an area characterised by detached houses. Where there were apartments the existing houses had been converted and so the character of the area had been maintained. The new building would be prominent on the street as it was a corner plot exacerbating the damage to the character of the area. 12 Shirley Drive would also be significantly affected by the increased noise of additional cars and the loss of light and the Applicant did not propose to provide any affordable housing.
- (16) Councillor Miller stated that the existing building was already dominant on the street and that to grant permission for a larger building would cause a significant loss of amenity for number 12 Shirley Drive and would have a negative impact on the streetscene. Councillor Miller also stated that he was sceptical about the claim that providing any affordable housing would make the scheme unviable.
- (17) Councillor Littman stated that given the current pressure on housing in the city it would be necessary to consider sites in the city where higher density housing could be accommodated. However the current policy around maintaining the character of an area was clear. The application did not show any exceptional circumstances which

would justify allowing a scheme so out of character with the area especially given the lack of affordable housing.

- (18) Councillor Morris stated that he was happy with the Outline Application but was keen to see the Applicants return with a design which was sympathetic to the streetscene.
- (19) Councillor Mac Cafferty stated that the site was not in a conservation area or an area of special interest. The streetscene was characterised by an inconsistent building line and houses of various size and bulk. He felt that the proposal complemented the non-uniformity of the area.
- (20) Councillor Hyde stated that her primary concern was that granting permission would set a precedent for similar higher density schemes which would completely transform an area characterised by large detached properties in spacious gardens. She felt that there were too many unknowns to grant permission and would have preferred to see a full application.
- (21) Councillor Inkpin-Leissner stated that the property was not in a conservation area and there was enough space on the plot for the development. There was an opportunity to gain nine additional units of accommodation for the city and with the right design there would be minimal harm to the street scene.
- (22) The Chair stated that it was a difficult application to consider as an outline application left a lot of unknowns. She was concerned about the proposed bulk of the scheme but felt that it was difficult to fully assess the impact of the development without any designs.
- (23) A vote was taken and on a vote of 5 for to 7 Against with no abstentions the office recommendation to grant was not carried.
- (24) In response to Councillor Bennett, Officers clarified that as the Committee was considering an Outline Planning Application it would be difficult to justify refusing the application on the grounds that it was out of character with the area as there were no plans being considered. National Planning Policy would define both the existing and proposed structures as residential and took a favourable view on applications which provided mixed housing in an area.
- (25) Councillor Bennett proposed that the application be refused planning permission on the following grounds:
  - 1. Loss of amenity to 12 Shirley Drive due to car parking noise and disturbance.
  - 2. Overdevelopment of the plot based on the scale and bulk of the outline
- (26) Councillor Theobald seconded the motion.
- (27) The Legal adviser suggested to the Committee that they authorise Planning Manager to agree a Section 106 obligation on the grounds set out in the report should the application be subject to an appeal.

(28) The Chair called a vote on the proposed alternative recommendations. This was carried with Councillors Gilbey, Theobald, Bennett, Hyde, Littman, Miller, Morris and Platts voting For, Councillors Cattell, Mac Cafferty, Inkpin-Leissner and Morgan voting Against with no abstentions.

18.3 **RESOLVED** – That the Committee has taken into consideration the recommendation laid out in the report but resolves to **REFUSE** planning permission on the grounds proposed by Councillor Bennett detailed in paragraph (25) above but to authorise a s106 Planning Obligation as set out in paragraph (27) above.

**D BH2018/00248, Patcham High School, Ladies Mile Road, Brighton - Full Planning**

Erection of 4no court sports hall with changing facilities. Reconfiguration of existing sports pitches to facilitate creation of new netball courts and a 3G football pitch with fencing and floodlighting, footpath access routes and other associated works.

**Officer Presentation**

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings and photographs. It was explained that the main considerations in determining this application related to the principle of the scheme, visual impact, impact on neighbouring amenity, highways matters, sustainability and arboriculture. The provision of a floodlit all weather pitch and the indoor facilities would enhance the physical educational/sports offer from the school for its students and for the wider community, with the potential to generate income for the school during the extended period of austerity measures and create additional employment opportunities. The proposal was therefore supported in principle; it would substantially enhance the quality of the sports facilities and would accord with the general policy approach for open space sports provision as set out in policies CP16 and CP17. It also met with policy requirements in that it would provide improved sporting facilities close to the community and had good pedestrian cycle links.
- (3) Sport England were of the view that the proposals were of sufficient benefit to the community to outweigh the loss of playing field and therefore supported the proposals. A Community Use Agreement could be secured by s106 agreement to ensure the development would directly benefit the local community and this was considered to represent a significant merit to this application; minded to grant approval was therefore recommended.

**Public Speakers**

- (4) Councillor Geoffrey Theobald spoke in his capacity as Local Ward Councillors in support of the scheme which was fully supported by all three Ward Councillors for Patcham Ward. He stated that having been a governor at the school for 20 years he was very aware of the detrimental impact the lack of sports facilities at the school had had. The sports facilities would also be available for use by the community outside of



school time. Through the s106 agreement the school would be providing improvements to the local area including a long requested crossing to aid parents taking their children to Patcham Infants School.

### **Questions for Officers**

- (5) In response to Councillor Hyde, the Planning Officer stated that the closest house to the proposed pitch was 27m away and that in combination with conditions limiting the brightness of the floodlights this was considered acceptable.
- (6) Councillor Mac Cafferty noted the large number of objections from neighbours that had been submitted and asked officers if the condition limiting the opening hours could be strengthened so that a 9pm closing time was secured for a number of years.
- (7) The Legal Adviser responded that they could not prevent the applicant applying to vary a condition in the future.
- (8) Councillor Mac Cafferty welcomed the acoustic fencing mentioned in the report but suggested that further conditions would need to be considered around basketball backboards to limit the amount of noise generated which had been an issue with similar schemes.
- (9) The Planning Manager responded that additional conditions could be added around the extent of the acoustic fencing and the backboards used.
- (10) In response to Councillor Morgan, the Planning Manager stated that the materials used in the 3G pitch and the concerns about their long-term effects would be something that other areas would have to take up and was not a Planning consideration.
- (11) In response to Councillor Littman, the Planning Officer stated that whilst the Council always sought the highest BREEAM standards this had to be balanced against a scheme being affordable and deliverable. As the application provided substantial public benefit Officers accepted the Applicant's commitment to a rating of 'very good' which was in line with Sport England standards for an affordable sports centre.

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

- (12) Councillor Hyde stated that she supported the scheme as it made best use of the field for the pupils and community and would allow the school to generate an income. She did have some concerns about the light and noise but felt a 9pm closing time struck the right balance between commercial viability and residents' needs.
- (13) Councillor Littman stated that he had found the site visit very beneficial and that he supported what he felt was overall a positive proposal despite some concerns about the sustainability and materials.
- (14) Councillor Mac Cafferty stated that he supported the application but felt from previous experience with similar schemes that the environmental health concerns needed to be thoroughly investigated.

- (15) Councillor Gilbey stated that she was in favour of granting permission and that there were two flood lit playing fields in her ward and that they had not proved to be an issue for residents.
- (16) The Chair stated that she supported the application which would allow for the school field to be better utilised especially in the winter when it was prone to being water logged.
- (17) A vote was taken and on a vote of 11 For with no Against and no abstentions minded to grant planning approval was agreed.

18.4 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to be **MINDED TO GRANT** planning permission subject to a s106 Planning Obligation and the Conditions and Informatives as set out in the report and the two additional conditions detailed in paragraph 10 above **SAVE THAT** should the s106 Planning Obligation not be completed on or before the 7 November 2018 the Head of Planning is authorised to refuse planning permission for the reasons set out in section 10. of the report:

**Note:** Having declared an interest in respect of the above application Councillor C Theobald withdrew from the meeting during consideration of the above application and took no part in the debate or decision making process.

**MINOR APPLICATIONS**

**E BH2018/00700, Peter Pan's Adventure Golf, Madeira Drive, Brighton - Full Planning**

Erection of 16 metre high rope climbing course above existing golf course

**Officer Introduction**

- (1) The Principal Planning Officer, Maria Seale, introduced the application and gave a presentation by reference to plans, elevational drawings and photographs. She stated that the main considerations in determining the application related to (HW11); the principle of locating the use in the this location, the impact to tourism and the economy, the impact to the setting of the East Cliff Conservation Area and nearby listed buildings, the impact to amenity and sustainable transport. 22 letters of support, 5 letters in objection and 2 comments had been received. The Kingscliffe Society and the Conservation Advisory Group had also objected to the scheme.

**Questions to Officers**

- (2) The Representative from the Conservation Advisory Group stated that the Group had reviewed the application before condition 3 which stipulated that the structure would be removed by 1 October 2024 had been recommended. He was thus unable to advise the Committee as to what opinion the Group would take on a proposal for a temporary structure in situ for five years.

- (3) In response to Councillor Theobald, the Planning Officer stated that the application did not include any suggestion that additional refreshments would be provided but there was already a café attached to the golf course and playground.
- (4) Councillor Littman was concerned that the recommendation to approve the scheme was inconsistent with previous decisions which had been to refuse similar schemes.
- (5) The Planning Officer responded that the objections which had been raised in the report by heritage officers were consistent with previous schemes. The application was distinct from previous schemes as it was time limited. The Planning Officer felt that the benefit of a temporary boost to the area outweighed the negative impact on heritage assets.
- (6) In response to Councillor Platts, the Planning Officer stated that the applicant may not have felt able to vary the application from previously unsuccessful ones as reducing the height enough to address the heritage impact would diminish its appeal to visitors so as to make the scheme no longer financially viable.

### **Debate and decision making process**

- (7) Councillor Hyde stated that economic development for the area was very welcome and that while the proposal was not aesthetically pleasing the whole area was awaiting regeneration and was not particularly aesthetically pleasing either.
- (8) Councillor Theobald welcomed the application as it provided another attraction for the seafront and she felt it would improve the area.
- (9) Councillor Inkpin-Leissner stated that he was minded to support the officer recommendations and that compared to some of the other seafront attractions 16m was quite small.
- (10) Councillor Platts stated that the east end of the seafront did desperately need more attractions but she felt the proposal was low quality and she was grateful that it was time limited.
- (11) The Chair stated that she welcomed meanwhile uses along the seafront while the renovation of the arches was in progress.
- (12) Councillor Littman felt that the application added to the variety of the seafront and would drag footfall east away from the centre.
- (13) Councillor Morris stated that he agreed with the point raised in the debate and welcomed the meanwhile use.
- (14) The Representative from the Conservation Action Group stated that he felt that the application was very similar to other temporary attractions which had opened on the seafront as they were tied together by the theme of meanwhile use.
- (17) A vote was taken and on a vote of 9 For with no Against and 1 abstention it was agreed to grant planning approval.

- 18.4 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission.

**Note:** Councillors Mac Cafferty and Morgan were not present for the consideration of the item.

**F BH2018/01221, Microscape House, Hove Park Villas, Hove - Full Planning**

Alterations and extension to third floor flat, including increase to ridge height, following prior approval application BH2016/05473 for change of use from offices (B1) to residential (C3) to form 7no flats. (Part retrospective).

**Officer Introduction**

- (1) The Principal Planning Officer, Chris Swain, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. The main considerations in determining the application related to the impact of the proposal on the design and appearance of the building and the wider surrounding area, including the setting of the Hove Station Conservation Area to the south and the impact on neighbouring amenity.
- (2) A prior application (BH2016/05473) for the change of use from office to seven residential flats was granted in November 2016 of which the single residential unit on the top floor was part.

**Debate and decision making process**

- (3) The Chair called a vote and the Committee unanimously agreed to grant planning permission.

- 18.5 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set in the report and resolves to **GRANT** planning permission.

**Note:** Councillors Mac Cafferty and Morgan were not present for the consideration of the item.

**G BH2017/04113, 64 St James's Street, Brighton - Full Planning**

Part demolition of existing building. Erection of three storey extension to front elevation and creation of additional storey to rear elevation and creation of additional storey to rear elevation to facilitate enlargement of studio apartment to two bedroom apartment and associated works.

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

- 18.6 **RESOLVED** - That consideration of the above application be deferred pending a site visit.

**H BH2017/03648, 7 Howard Terrace, Brighton- Full Planning**

Change of use and part demolition of existing storage buildings (B8) to form 1x one bed flat, 1x two bed flat, 2x three bedroom houses, cycle storage and associated works.

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

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

**I BH2016/06391,123-129 Portland Road, Hove - Full Planning**

Creation of additional floor to provide 1no one bedroom flat and 3no two bedroom flats (C3) with associated alterations.

**Officer Presentation**

- (1) The Principal Planning Officer, Johnathan Puplett, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the material considerations in determining the application related to (HW12); the impact of the additional storey on the character and appearance of the building, the wider streetscene, the effect on the amenity of neighbouring residential occupiers, the standard of the proposed accommodation, and transport and sustainability issues. The Planning Department had received 22 letters objecting to the scheme.

**Questions to Officers**

- (2) In response to Councillor Morris, the Planning Officer confirmed the proposed materials as presented in the report.
- (3) The Planning Officer stated in response to Councillor Gilbey that condition 3 required the provision of a suitable recycling and waste storage scheme to be agreed with the Local Planning Authority before the development could be occupied.

**Debate and decision making process**

- (4) Councillor Hyde stated that she felt the materials were out of keeping with the neighbourhood and would make the proposed new storey look like a metal shed erected on top of the red brick building below.
- (5) Councillor Littman stated that the existing building was already unattractive and putting another out of character storey on top would only increase its detrimental impact on the streetscene.
- (6) The Chair stated that Portland Road had a distinctive character of flats above shops build in the 1930s and the application did not reflect this.

- (7) A vote was taken and on a vote of 4 for and 6 Against with no abstentions planning permission was refused.
- (8) Councillor Hyde proposed that the application be refused planning permission the officer recommendation to grant planning permission was not carried.
  - 1. Use of materials out of keeping with the character of the area which makes the design inappropriate.
- (9) Councillor Littman seconded the proposal.
- (10) The Chair called a vote on the proposed alternative recommendations which was carried with Councillors Cattell, Gilbey, Theobald, Bennett, Hyde, Littman, Morris voting for and Councillors; Inkpin-Leissner, Miller and Platts voting against with no abstentions.

18.9 **RESOLVED** – That the Committee has taken into consideration the recommendation laid out in the report but resolves to **REFUSE** planning permission on the grounds proposed by Councillor Hyde detailed in paragraph (8) above.

**Note:** Councillors Mac Cafferty and Morgan were not present for the consideration of the item.

**J BH2017/04070, 8 Lloyd Road, Hove - Full Planning**

Demolition of garage and erection of 2 bedroom residential dwelling (C3) to rear and associated alterations.

**Officer Introduction**

- (1) The Principal Planning Officer, Jonathan Puplett, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. The main considerations in determining the application related to the principle of a dwelling upon the plot, the design of the proposal, its impact upon the character and appearance of the area, the amenity of adjacent residential occupiers, living accommodation standards, transport/parking and arboricultural interest of the site. Six letters of objection had been received by the planning department. Councillor Brown, one of the Ward Councillors had also objected to the application.
- (2) A previous planning application (BH2016/05174) for a 3 bedroom dwelling at the same site had been refused. The decision had been taken to appeal which was dismissed. The Planning Inspector had supported two of the Council’s reasons for refusing (HW13); design and standard of accommodation/ garden provision. The Inspector did not support impact on neighbouring amenity or removal of trees and planting as grounds for refusal. It was the opinion of the Planning Officer that the concerns raised by the inspector regarding the previous application had been successfully addressed.
- (3) BH2017/04070 had previously been considered by the Planning Committee on 9 May 2018. The Committee deferred consideration of the application to allow officers to request an updated tree plan as there was concern that the trees between the flint boundary wall and the pavement were being removed unnecessarily and that it may

not be in the Applicant's gift to remove them as there was some uncertainty about the ownership of both the land and the trees.

- (4) The Planning Officer also proposed an additional condition be added; that the applicant must fully detail how parking will be accommodated as the existing plan did not adequately demonstrate that there was sufficient room for a car to be parked on the drive way retained by 8 Lloyd Close.

**Questions to Officers**

- (5) In response to Councillor Theobald, the Planning Officer confirmed that the Applicant had altered the original more modern design and reduced the size of the proposed house to address the concerns of the Planning Inspector.
- (6) Councillor Littman stated that he was pleased the deferment had led to five fewer trees being removed and asked if the Arboriculturist had been consulted about the revised tree plan.
- (7) The Planning Officer said that additional comments from the Arboriculturist were not sought as the Planning Inspector had dismissed the concern about the number of trees being lost at appeal when it was proposed that seven would be removed.
- (8) In response to Councillor Hyde, the Planning Officer confirmed that the Planning Inspector's views were that a dwelling was appropriate on the site and the Applicant had addressed the Inspector's concerns with the original plan.

**Debate and decision making process**

- (9) A vote was taken and on a vote of 9 for with 1 Against and no abstentions Planning Permission was granted.

18.10 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** full planning permission.

**Note:** Councillors Mac Cafferty and Morgan were not present for the consideration of the item.

**K BH2017/03152, 39 Dyke Road Avenue, Hove Full Planning**

Erection of part one part two storey rear extension to facilitate three new blocks on existing care home.

**Officer Presentation**

- (1) It was noted that this application had formed the subject of a site visit prior to the meeting.
- (2) The Principal Planning Officer, Jonathan Puplett, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans.

The application related to a large two-storey property currently in use as a 22 bed care home for the elderly. The building was situated in the Tongdean Conservation Area and the plot was subject to a Tree Protection Order. Permission was sought for erection of a part two, part one-storey rear extension to form three new blocks on the existing care home. The proposed extension would facilitate 13 new bedrooms in the building. The main considerations relating to the application were the principle of the development, the design and appearance of the proposal on the surrounding Conservation Area, the impact of the extension upon neighbouring amenity, the standard of accommodation proposed, the impact on trees and wildlife and transport issues.

- (3) The Arboriculture Officer had recommended several conditions to mitigate the impact of the development on surrounding trees including tree protection fencing and supervision during the construction process. The material planning considerations relating to the proposal had been fully assessed and potential harm which could be caused by the development in terms of its visual impact, impact on neighbouring amenity and impact on protected trees had been acknowledged. However, the proposal would provide thirteen additional bedrooms which would help to ensure the ongoing viability of an established nursing home providing essential care for the elderly. It was therefore considered that the public benefit of the proposal would outweigh any harm identified and the application was therefore recommended for approval subject to conditions.

#### **Questions for Officers**

- (4) Councillor Bennett questioned whether the Planning Officer would have taken the same view on the application if it was a householder application given its size and that it was in a conservation area.
- (5) The Planning Officer responded that he took into account the nature of the accommodation when making a recommendation to Committee and that a householder application would change the nature of the application.
- (6) Councillor Littman stated that extensions were meant to be subsidiary to the main building and was unsure if what was proposed would be.
- (7) The Planning Officer responded that in architectural terms the proposed addition would read as a rear wing due to the arrangement of the building but it was of considerable size.
- (8) In response to Councillor Hyde, the Planning Officer stated that the properties on Chalfont Drive would have a back to back arrangement with the proposed extension with a significant distance between the buildings. There was screening and an access road between the proposed extension and other neighbours.
- (9) Councillor Theobald stated that she was concerned about the additional light pollution caused by the extension as the nursing home currently left internal lights in common areas on all night and the impact of this on neighbours would be increased by a two storey structure.



- (10) The Planning Officer stated that the spacing between the neighbours and the proposed extension was acceptable and that the use of internal lights may be something that was outside of the Committee's control.
- (11) Councillor Morris noted that the existing building provided 22 bed spaces and the extension would facilitate a further 13 bedrooms. He asked Officers to clarify if bedrooms and bed spaces were the same in the context of the application.
- (12) The Planning Officer apologised for the inconsistent language in the application and stated that he couldn't confirm if bed spaces and bedrooms referred to the same thing in this context.

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

- (13) Councillor Gilbey stated that given the back to back arrangement and the space between the extension and neighbouring properties she felt the proposal was acceptable. The harm caused to neighbours would be the loss of a view not loss of light.
- (14) Councillor Theobald stated that the extension was too large to be considered as subsidiary to the main house and she was particularly concerned by the two storey element of the proposal.
- (15) Councillor Littman stated that it was a difficult application to determine as the city needed additional care home and nursing home capacity. However the proposal put a lot of trees at risk and was a large addition to the existing house which was not subsidiary.
- (16) Councillor Hyde felt a two storey extension would look too much like a back garden development which wasn't acceptable in a conservation area.
- (17) Councillor Morris noted the Heritage Officer's comments that the extension would significantly alter the character of the building and he was concerned about the bulk of the proposal.
- (18) In response to the Chair, the Planning Officer clarified that although the Heritage Officer's comments showed that they felt that the extension would cause harm to the conservation area this harm was 'less than substantial'. Where harm was less than substantial it was weighed against the public benefit of the proposal. In the case of the application the Planning Officer felt that the benefit of increased care home capacity in the city outweighed the harm to the conservation area.
- (19) Councillor Inkpin-Leissner stated that the development would provide a vital public service and was hidden from the public realm and so he would be supporting it.
- (20) Councillor Bennett stated that she was not minded to support the application as it was a very large development in the conservation area.
- (21) A vote was taken and on a vote of 4 for to 5 Against with 1 abstention the officer recommendation to grant planning permission was not carried.

- (22) Councillor Littman proposed that the application be refused planning permission on the following grounds:
1. Overdevelopment which was inappropriate in a conservation area characterised by large plots with trees.
  2. Extension was not subservient to the existing building
  3. Adverse impact on established trees
  4. Overall the benefits of the scheme did not outweigh the harm
- (23) Councillor Bennett seconded the motion.
- (24) The Chair called a vote on the proposed alternative recommendations which was carried with Councillors; Theobald, Bennett, Hyde, Littman, Miller and Morris voting For and Councillors; Gilbey, Cattell, Inkpin-Leissner, and Platts voting against with no abstentions.
- 18.11 **RESOLVED** – That the Committee has taken into consideration the recommendation laid out in the report but resolves to **REFUSE** planning permission on the grounds proposed by Councillor Littman detailed in paragraph (22) above.

**Note:** Councillors Mac Cafferty and Morgan were not present for the consideration of the item.

**L BH2017/03830, 19 Shirley Drive, Hove- Householder Planning Consent**

Erection of first floor side extension over existing garage and a porch to the front elevation and a porch to the side elevation.

**Officer Presentation**

- (1) The Principal Planning Officer, Jonathan Puplett, introduced the application and gave a presentation by reference to plans, site plans, elevational drawings and photographs. He explained that as an appeal against non-determination had been lodged the Committee were unable to determine the application but were required to indicate what their decision would have been had the Council determined the application prior to the appeal being lodged. This would then be submitted to the Planning Inspectorate in conjunction with the planning authority appeal statement.
- (2) It was explained that the main considerations in determining this application related to the impact of the proposed development on the relationship between the proposed works and the neighbouring property, the resultant impact on the amenity of neighbours and the design and appearance of the proposed extension. The proposed development followed a previous application which had been refused and a subsequent appeal which had been dismissed. Consideration of the current application had taken account of the inspector's reasons for dismissing that appeal. It was considered that the proposed development would result in an acceptable appearance and the impact upon neighbouring amenity which would be caused was considered insufficient to warrant refusal. Approval would therefore have been recommended.

### Public Speakers

- (4) Mr Adams the immediate neighbour to 19 Shirley Drive, spoke in objection to the application. He stated that the proposed extension would cause a loss of light to his house and specifically his front room which would be cast into shadow. He was not against the principle of 19 Shirley Drive being extended but as his living room window was set back 4m from the garage a two storey extension would block all light to the room which suffered from poor light already.

### Questions for Officers

- (5) In response to Councillor Theobald, the Planning Officer stated that no daylight report was available and it had been the opinion of the Planning Inspector that a larger proposed extension would not have had a significant impact on light to the neighbouring property.
- (6) In response to Councillor Hyde, the Planning Officer confirmed that it was not proposed to have a window on the side of the extension.
- (7) In response to Councillor Hyde, the Legal Adviser confirmed that once an appeal had been lodged the Planning Inspector would determine an application regardless of the Committee's decision. The Applicant could however choose to withdraw the appeal and submit a new application.
- (8) In response to Councillor Gilbey, the Planning Officer confirmed that the application included the installation of a new porch.
- (9) In response to Councillor Theobald, the Planning Officer stated that the revised design was about 50cm smaller than the previous application which meant that the first floor no longer extended beyond the existing footprint of the garage.

### Debate and Decision Making Process

- (10) A vote was taken and on a vote of 9 For to 3 Against with no abstentions members determined that had they determined the application prior to an appeal being lodged against non-determination the Committee would have granted planning permission.
- 18.12 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that, had the Council determined the application prior to an appeal against non-determination being lodged, it **WOULD HAVE GRANTED** planning permission subject to Conditions and Informatives set out in the report.

### M **BH2018/00081, 51 Woodland Avenue, Hove- Householder Planning Consent**

Demolition of single storey rear extension. Erection of a part one part two storey rear extension, single storey side extension and associated works.

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

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

**N BH2018/00164, 58 Staplefield Drive, Brighton- Full Planning**

Change of use from 3 bedroom dwelling house (C3) to 4 bedroom small house in multiple occupation (C4). (Retrospective)

**Officer Presentation**

- (1) The Principal Planning Officer, Jonathan Puplett, introduced the application and gave a presentation by reference to site plans, floor plans, elevational drawings and photographs. It was explained that the application related to a two storey semi-detached house on the west side of Staplefield Drive. Retrospective planning permission was sought for the change of use of a three bedroom dwelling house (C3) to a small house in multiple occupation (C4) with four bedrooms.
- (2) The main considerations in determining this application related to the principle of the change of use to either class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation. A mapping exercise had been undertaken which had indicated that there were 35 neighbouring properties within a 50m radius of the application property. Three other properties had also been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area was thus 8.57%. Based upon the existing percentage of neighbouring properties in HMO use, which was less than 10%, the proposal to change use to a four bed house in multiple occupation would not be in conflict with policy CP21.
- (3) No external alterations had been made to the property, and consequently there were no adverse impacts on the design and appearance of the property. It was recommended that permitted development rights to make any future alterations be removed by planning condition. Overall the proposed standard of accommodation was considered to be acceptable and conditions were recommended to restrict the number of occupants proposed to four as this was the number that had been proposed by the applicant and would also ensure that the proposed communal rooms were retained as such and not used as additional bedroom space in the future. No on-site was available however the proposed development was unlikely to cause significantly increased demand for on-street parking. It was recommended that cycle parking provision be secured by planning condition.

**Debate and Decision Making Process**

- (4) The Committee raised no further matters and moved directly to the vote.
- (5) A vote was taken and of the 8 members of the Committee present when the vote was taken on a vote of 6 to 2 planning permission was granted.

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

**(Note1):** Councillors Mac Cafferty, Miller, Morgan and C Theobald were not present at the meeting when the vote was taken.

**O BH2018/01093, 96 Auckland Drive, Brighton- Full Planning**

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

**Officer Presentation**

- (1) The Principal Planning Officer, Jonathan Puplett, introduced the application and gave a presentation by reference to floorplans, plans, elevational drawings and photographs. It was noted that the application site related to a two storey semi-detached property located to the south of Auckland Drive. Permission was being sought for conversion of the property from a three bedroom dwelling house to a four bedroom HMO. A small infill extension was proposed to the rear.
- (2) The main considerations in the determination of this application related to the principle of the change of use, the impact on neighbouring amenity, the standard of accommodation which the use would provide in addition to transport issues and the impact on the character and appearance of the property and the surrounding area. This application was a resubmission following refusal of an earlier application which had been refused on the basis of the standard of accommodation to be provided. Amended drawings had been received subsequently during the course of this application, slightly increasing the size of two of the first floor bedrooms and reducing the size of the hallway. The proposed unit would comprise a kitchen/dining/living and a bedroom at ground floor level. The layout at both ground and first floor had been changed in order to address the previous reason for refusal.
- (3) A mapping exercise had taken place which had indicated that there were 22 neighbouring residential properties within a 50m radius of the application property. Zero (0) other properties have been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is thus 0%. Based upon this percentage, which is not more than 10%, the proposal to change to a C4 HMO would be in accordance with policy CP21. Given the low proportion of other HMO's within the immediate vicinity of the site and that only four occupants would reside at the property, the level of additional activity was considered to be acceptable and would not result in significant harm to the amenity of neighbouring occupiers and would be in accordance with policy CP21. The proposed rear infill extension would not impact on neighbouring amenity and approval was therefore recommended.

**Questions for Officers**

- (3) Councillor Gilbey asked to see a copy of the plan showing the location other HMO's within a 50m radius. It was noted as the mapping information held by the council was now updated on a weekly basis a premises not originally taken account and referred to by Councillor Meadows, no 67 Auckland Drive, was now included. Notwithstanding that the number of such properties remained below 10%.

**Debate and Decision Making Process**

- (4) The Committee raised no further matters and moved directly to the vote.
  - (5) A vote was taken and of the 8 members of the Committee present when the vote was taken on a vote of 6 to 2 planning permission was granted.
- 18.15 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

**(Note1):** Councillors Mac Cafferty, Miller, Morgan and C Theobald were not present at the meeting when the vote was taken.

**P BH2018/00319, 12 Twyford Road, Brighton- Full Planning**

Change of use from three bedroom single dwelling (C3) to six bedroom small house in multiple occupation (C4), with alterations to fenestration (part retrospective).

**Officer Presentation**

- (1) The Principal Planning Officer, Jonathan Puplett, introduced the report and gave a presentation by reference to site plans, floorplans, elevational drawings and photographs. It was explained that the main considerations in determining this application related to the principle of the change of use, the design of the external works, the standard of accommodation which the use would provide, impact upon neighbouring amenity and transport issues. The changes proposed to the internal layout of the property would result in 2no bedrooms at ground floor level with an open plan kitchen and living area and 4no bedrooms and bathroom at first floor level. The bedrooms met the minimum national space standards and were adequate in terms of size and layout to cater for the furniture needed with good levels of natural light and outlook within the unit.
- (2) A mapping exercise had taken place which had indicated that there are 39 neighbouring properties within a 50m radius of the application property; 1 other property 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 therefore 2.56%. Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a C4 HMO complied with policy CP21. It was considered that in this instance whilst the proposed change of use from a C3 dwelling house to a six bedroom C4 HMO would result in a more intensive use of the property and a greater impact on the immediate and surrounding area the increased impact likely to be caused would not be of a magnitude which would cause demonstrable harm to neighbouring amenity and would not warrant the refusal of planning permission. The proposed external works would not result in harm to neighbouring amenity and approval was therefore recommended.

**Questions for Officers**

- (3) Councillor Gilbey asked to see a copy of the plan showing the location other HMO’s within a 50m radius. It was noted as the mapping information held by the council was now updated on a weekly basis a premises not originally taken into account was now included. Notwithstanding that the number of such properties remained below 10%.

**Debate and Decision Making Process**

- (4) The Committee raised no further matters and moved directly to the vote.
- (5) A vote was taken and of the 7 members of the Committee present when the vote was taken on a vote of 6 to 1 planning permission was granted.

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

**(Note1):** Councillors Inkpin-Leissner, Mac Cafferty, Miller, Morgan and C Theobald were not present at the meeting when the vote was taken. Councillor Inkpin-Leissner having declared a prejudicial interest left the meeting room and took no part in consideration of the application, nor the debate and decision making process.

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

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

BH2017/04113, 64 St James’ Street, Brighton	Councillor C Theobald
BH2017/03648, 7 Howard Terrace, Brighton	Councillor Hyde
BH2018/00081, 51 Woodland Avenue, Hove	Councillor Bennett

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

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

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

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

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

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

**23 APPEAL DECISIONS**

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

The meeting concluded at 8.10pm

Signed

Chair

Dated this

day of



The following public question has been received from Mr Gareth Hall relating to BH2017/02805 (Pavilion Tea House):

“Councillors Vanessa Brown, Jayne Bennett, Peter Kyle MP, Park gardeners, tennis players, residents associations, neighbours, dog walkers, basketball players, rock climbers, no one other than some people frequenting the cafe knew about its demolition and the felling of three trees (1 elm) until it was too late.

Publicising of planning applications to residents of Brighton and Hove may reach minimum statutory requirements but is not good enough.

What are councillors going to do to ensure the planning department do more within the current spending constraints to ensure that the people they represent are better informed about planning applications?”



<b>Subject:</b>	121-123 Davigdor Road Hove Request to vary the Heads of Terms of Section 106 Agreement in connection with planning permission BH2015/02917 for a mixed use building comprising 47 residential units and D1 community space.
<b>Date of Meeting:</b>	15 August 2018
<b>Report of:</b>	Executive Director Economy, Environment and Culture
<b>Contact Officer:</b>	Jonathan Puplett
<b>Wards Affected:</b>	Goldsmid

## 1. PURPOSE OF THE REPORT

- 1.1 To consider a request to vary the Heads of Terms of a Section 106 Agreement signed in connection with planning application BH2015/02917, in order to secure affordable housing by way of a commuted sum in conjunction with on-site provision of shared ownership units.

## 2. RECOMMENDATION

- 2.1 That the proposed variations to the Head of Term be agreed to require the Developer to provide a financial contribution of £669,900 (plus indexation) towards off-site provision of affordable housing, and the provision of 15 shared ownership affordable units on-site comprising 5x 1-bedroom, 8x 2-bedroom and 2x 3-bed units.

## 3. BACKGROUND INFORMATION

- 3.1 Planning permission was granted under application BH2015/02917 for:

*Demolition of existing building and erection of a new part five and seven and eight storey (plus basement) building comprising a total of 47 one, two and three bedroom residential units (C3) with balconies, roof terraces (2 communal) to storeys five, six and seven, community space on the ground floor (D1) together with associated parking, cycle storage, recycling facilities and landscaping.*

- 3.2 The application was heard at the Planning Committee Meeting of the 9<sup>th</sup> of December 2015. Under this application it was demonstrated that a 40% provision of affordable housing was not viable and this was verified by the DVS. The affordable provision which was secured comprised eight units; 6x rental units and 2x shared ownership.

- 3.3 The permission was issued 05/02/2016 following the completion of the s106.

3.4 At the Planning Committee of the 9<sup>th</sup> of November 2016 a request to vary the requirements of the s106 agreement was presented. The Registered Providers who had shown interest in taking on the proposed affordable units had withdrawn their interest, and in the absence of any other interested Providers, alternative proposals had been put forward by the Developer. It was considered at the time that the most appropriate alternative would be to secure a contribution towards off-site provision of affordable housing which equated to £1,218,000. This recommendation was approved by members and the Deed of Variation was completed 07/02/2017. This amount is subject to indexation from the date the agreement was signed.

#### **4. PROPOSAL**

4.1 The Developer has written to the Council to request that the current requirement for a contribution of £1,218,000 (plus indexation) towards off-site provision of affordable housing be varied to require the Developer to a contribution of £669,900 towards off-site provision of affordable housing, and the provision of 15 shared ownership affordable units on-site comprising 5x 1-bedroom, 8x 2-bedroom and 2x 3-bed units.

#### **5 COMMENT**

5.1 The Developer originally proposed providing 15 shared ownership units on-site as an alternative to the £1,218,000 (plus indexation) contribution currently secured. A similar proposal for 100% shared ownership units had been deemed inappropriate in 2016. In conjunction with the Housing Strategy and Planning Policy Teams it was again considered that such a proposal would not adequately address the requirements of the Affordable Housing Brief which seeks to secure a mix of tenures and places greatest priority upon the delivery of rental units.

5.2 Following discussions with the Developer a revised hybrid proposal has come forward consisting of a contribution of £669,900 (plus indexation) towards off-site provision of affordable housing, and the provision of 15 shared ownership affordable units on-site.

5.3 The figure of £669,900 (plus indexation) represents 55% of the amount which is currently secured. This is considered appropriate in this case, as 55% represents the percentage of affordable units which the Affordable Housing Brief seeks to secure as on-site provision where such provision is proposed. In addition 15 shared ownership affordable units are proposed on site, the mix of units of which (5x 1-bedroom, 8x 2-bedroom and 2x 3-bed units) is representative of the scheme as a whole. As a combined proposal this addresses the Affordable Housing Brief objective to provide a mixed tenure, albeit the rental units in this case will be delivered off-site.

5.4 The Housing Strategy Team do not support the proposal on the basis that the contribution currently secured (£1,218,000 (plus indexation)) was calculated in line with our published guidance and would make a valuable

contribution towards a number of current initiatives to provide affordable rented homes which can benefit from funding provided through Commuted Sum payments.

5.5 In regard to indexation, the Applicant has confirmed that occupation of at least one unit has commenced. Therefore the requirement to pay the contribution has been triggered and the payment is in fact overdue. The amount currently secured, and the amount now proposed, will therefore be subject to indexation from the date the current agreement was completed; 07/02/2017.

5.6 Overall, whilst the concerns raised by the Housing Strategy Team have been fully considered, having regard to the current contribution secured, it is considered that the new proposal is an acceptable alternative. The proposal will deliver a mix of tenures, and a greater number of units overall. It is therefore recommended to Members that the variation now proposed be agreed.



<b>Subject:</b>	City College 87 Preston Road Brighton BN1 4QG		
	Request to vary the terms of the Section 106 agreement relating to planning permission BH2017/01083 (Change of use from education (D1) to 25no flats (C3) including roof conversion, insertion of mezzanine levels, installation of rooflights, replacement of windows, erection of rear infill extension at first floor level, demolition of existing building to rear of property and other associated works including cycle and bin store, new pedestrian access to the building, communal garden space and associated landscaping).		
<b>Date of Meeting:</b>	15 August 2018		
<b>Report of:</b>	Executive Director Economy, Environment and Culture		
<b>Contact Officer:</b>	Name:	Sarah Collins	Tel: 01273 292232
	E-mail:	Sarah.collins@brighton-hove.gov.uk	
<b>Wards Affected:</b>	Preston Park		

## 1. PURPOSE OF THE REPORT

- 1.1 To consider a request to vary the Heads of Terms of a Section 106 Agreement signed in connection with planning application BH2017/01083, in order to amend the affordable housing requirements.

## 2. RECOMMENDATION

- 2.1 That the proposed variation to the Head of Term be agreed so that the developer is obligated to provide the affordable housing on site as set out in the s106, but with the tenure amended from 5 x affordable rented and 5 x shared ownership to 10 x shared ownership units, which would represent 40% on-site provision of affordable housing, at 100% shared ownership.

## 3. BACKGROUND INFORMATION

- 3.1 Members were Minded to Grant full planning permission at Planning Committee on 9 August 2017 for the following planning application:

**BH2017/01083** Change of use from education (D1) to 25no flats (C3) including roof conversion, insertion of mezzanine levels, installation of rooflights, replacement of windows, erection of rear infill extension at first floor level, demolition of existing building to rear of property and other associated works including cycle and bin store, new pedestrian access to the building, communal garden space and associated landscaping.

- 3.2 The granting of permission was subject to the completion of a S106 agreement containing the following Head of Term (amongst others) as set out in the original Committee report:

Affordable Housing: On site provision of 5 no. affordable rent units and 5 no. shared ownership units, which represents 40% affordable.

- 3.3 Planning Permission was granted on 20 November 2017 following completion of the s106 agreement.

#### **4. PROPOSAL**

- 4.1 The developer has written to the Council to request that, following negotiation with a Registered Provider (RP), the affordable housing is secured on site with the tenure adjusted to 10 x Shared Ownership, the same ten units as the original application (as set out in appendix 1 of the s106 agreement).
- 4.2 The proposal is made by the developer in response to a lack of interest in the affordable units from the Council's list of preferred Registered Social Landlords (RSLs). The developer has submitted letters from each of the preferred RSLs to demonstrate their lack of interest, which are provided in Appendix 1. However, one of the preferred RSLs has confirmed their interest in taking up the affordable units if they were all shared ownership (provided in Appendix 2), and therefore the proposal is made on this basis.

#### **5. COMMENT**

- 5.1 With respect to provision of affordable housing the expectation of CP20(a) is to achieve 40% affordable housing provision on sites of 15 more units, and this proposal would therefore continue to comply with this policy requirement. However, a further policy requirement is for the affordable housing provision to incorporate a mix of tenures; the policy advises that the exact split of which will be a matter for negotiation and informed by up to date assessments of local housing need and individual site and/or neighbourhood characteristics.
- 5.2 Policy CP20 lists 5 considerations for assessing the appropriate level and type of affordable housing provision:
- i. local need in respect of the mix of dwelling types and sizes including the city's need to provide more family-sized affordable housing;
  - ii. the accessibility of the site to local services and facilities and public transport;
  - iii. the costs relating to the development; in particular the financial viability of developing the site (using an approved viability model);
  - iv. the extent to which the provision of affordable housing would prejudice the realisation of other planning objectives; and
  - v. the need to achieve a successful housing development
- 5.3 The affordable housing tenure split secured for the original application BH2017/01083 (50% affordable rent; 50% shared ownership) was informed by the guidance provided in the Council's Affordable Housing



Brief (2016) and the Housing Team's response on the application was also taken into account.

- 5.4 The Housing Team's response on the original application sought a split of tenure as follows: *The Affordable Housing Brief requires a tenure mix of 55% Affordable rent and 45% Intermediate Housing (Shared Ownership), which would equate to 6 affordable rent and 4 intermediate units. A split of 5/5 would also be acceptable.*
- 5.5 However, since the original application was determined, the developer has provided evidence that none of the Council's preferred RSLs are willing to take up the affordable units with the tenure split of 5 affordable rent and 5 shared ownership units (see Appendix 1). The developer is therefore unable to meet this obligation within the s106 agreement.
- 5.6 The reasons the preferred RSLs give for not wishing to take up the units are:
- Too few affordable units within the scheme;
  - Affordable units not within separate block, therefore difficult to manage the mix of tenures;
  - Don't own the freehold therefore can't control the maintenance of the building;
  - Lack of parking and difficult access for the wheelchair unit;
  - Duplex layout would not be popular and refurbishment properties are difficult and costly to maintain.
- 5.7 It is for this reason that the developer has proposed to provide all the affordable units as Shared Ownership (10 units), which one of the Council's preferred RSLs has agreed in principle to acquire for this development (see Appendix 2). The developer has confirmed that the development cannot be implemented unless this Deed of Variation is agreed.
- 5.8 The planning and economic benefits that the implementation of this development would deliver should be taken into account: the development would provide much needed private housing, as well as policy compliant level (40%) of affordable housing (albeit 100% shared ownership), in a sustainable location with good access to shops and services and sustainable transport links, and would improve and bring into use an attractive locally listed building, and would help to secure its long-term retention and maintenance. The s106 also commits the developer to £130,835 of contributions towards local education services, recreation facilities and employment schemes.
- 5.9 It is considered that the developer has provided sufficient justification and evidence that a mix of tenures cannot be provided on site, and therefore an exception to this policy requirement within policy CP20 can be accepted in this case, taking into account the site characteristics and considerations iv and v listed in the policy (iv. the extent to which the provision of affordable housing would prejudice the realisation of other

planning objectives; and v. the need to achieve a successful housing development).

### Housing Response

- 5.10 The Housing Team welcomes the on-site provision of 40% affordable housing, and whilst a mix of tenures should be provided, accepts that there are currently difficulties with the take up of on-site provision of affordable rent units by the Council's preferred RSLs, as evidenced by the responses from the RSLs in Appendix 1. This is particularly the case with smaller numbers of units such as in this case. However, the Housing Officer has commented that their preference would be for a commuted sum towards the Council's off-site affordable housing initiatives which could benefit from additional funding.
- 5.11 The background to this is that affordable housing for rent remains a pressing need in the city and the current programme of affordable homes being developed by RSLs through S106 Agreements shows a significantly higher proportion of these as shared ownership homes - more than 80% against a preferred split of 55% affordable housing for rent and 45% shared ownership. However, this position is currently improved through the council's own affordable housing development programmes.

### Analysis

- 5.12 Following the request from the Housing Team for the developer to consider offering a commuted sum, the developer has calculated that the maximum they can viably offer would be a commuted sum of £358,570 towards off-site affordable housing, once 23 of the 25 units have been sold or occupied, but with this offer there would be no on-site provision of affordable housing.
- 5.13 In response to this offer, Housing recommend that we accept either the 40% on site affordable housing with 100% as shared ownership units, OR the commuted sum of £358,570 towards off-site affordable housing.
- 5.14 However, this commuted sum would represent significantly less than 40% affordable housing, has not been reviewed by the DVS and would provide no on-site affordable housing (which is a policy CP20 requirement). It is therefore considered that the commuted sum offer has not been fully justified and could therefore not be accepted as an exception to policy CP20.
- 5.15 In conclusion it is considered that a Deed of Variation to allow a change in the tenure mix from 5 x affordable rented and 5 x shared ownership to 10 x shared ownership units, should be accepted. This is on the basis that policy CP20(a) would be complied with which requires 40% on-site provision of affordable housing, and that in this case sufficient evidence has been made to justify an exception to the policy requirement for a mix of affordable tenures.

Background Documents:  
Planning Application BH2017/01083



**Sarah Collins**

---

**From:** Chris Oakley <chris@oakleyproperty.com>  
**Sent:** 27 June 2018 15:51  
**To:** Ade Ellett  
**Cc:** Grazina Thompson; Dan Patrick  
**Subject:** 87 Preston Road, Brighton  
**Attachments:** Preston rd; RE: 87 Preston Road, Brighton - Affordable Housing Section 106 Quota Available; RE: 87 Preston Road, Brighton - Affordable Housing Section 106 Quota Available; RE: 87 Preston Road, Brighton - Affordable Housing Section 106 Quota Available; RE: 87 Preston Road, Brighton - Affordable Housing Section 106 Quota - 10 units

Ade

Following your request I would confirm that I have approached all 5 of the B&HCC preferred RP's about the mixed tenure policy compliant affordable proposed in the scheme and unfortunately none have responded back positively about taking both affordable rent and shared ownership mixed together. Please see attached responses from all 5 of them. I am having a discussion with Southern Housing on the basis that they would be keen on shared ownership and hope to have some confirmation back to you shortly!

Regards.



**CHRIS OAKLEY MRICS | Executive Chairman**  
**Commercial Property, Land and New Homes Office**  
23 & 24 Marlborough Place  
Brighton, East Sussex BN1 1UB  
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Major 9 acre (3.64 hectare)  
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## Sarah Collins

---

**From:** Jeremy Barkway <Jeremy.Barkway@shgroup.org.uk>  
**Sent:** 11 May 2018 19:09  
**To:** Chris Oakley  
**Subject:** Preston rd

Chris

Thanks for the details on the quota at the Preston rd development.

On balance we have decided not to bid for this, for a combination of reasons involving location, scale, life cycle costs and integration of tenures.

regards

Jeremy

Jeremy Barkway Strategic Partnership Manager  
Southern Housing Group Limited a charitable housing association and registered society No. 31055R  
Southern Home Ownership Limited a registered society No. 18521R  
Southern Space Limited Company Registration No. 5400187  
All registered in England with registered office at Fleet House, 59-61 Clerkenwell Road, London EC1M 5LA

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<http://www.shgroup.org.uk>





**Sarah Collins**

---

**From:** Rhys Daniel <Rhys.Daniel@hyde-housing.co.uk>  
**Sent:** 30 April 2018 16:24  
**To:** Chris Oakley  
**Subject:** RE: 87 Preston Road, Brighton - Affordable Housing Section 106 Quota Available

Dear Chris.

Thank you for bringing this opportunity to us. It is not I am afraid of interest to Hyde. The total number of affordable units is too small for Hyde's current target requirements and the mix of units in a single block and the nature of the scheme (refurbishment) also make this an unattractive proposition from a management, maintenance and affordability perspective.

To be honest I think you will struggle to find a taker for these units from RPs operating in the City.

Regards.

Rhys

**Rhys Daniel**  
**Head of Land and Planning (South)**

---

**T:** 01273 234261 (Ext. 4261)  
**M:** 0791 805 7500  
**E:** [rhys.daniel@hyde-housing.co.uk](mailto:rhys.daniel@hyde-housing.co.uk)

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[www.hyde-housing.co.uk](http://www.hyde-housing.co.uk)

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**From:** Chris Oakley [mailto:[chris@oakleyproperty.com](mailto:chris@oakleyproperty.com)]  
**Sent:** 30 April 2018 16:11  
**To:** Rhys Daniel  
**Subject:** 87 Preston Road, Brighton - Affordable Housing Section 106 Quota Available

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Dear Rhys

I am instructed by Preston Road Apartments Limited to you the offer the affordable housing made available in their refurbishment of the above site, through the Section 106 Agreement. The affordable housing quota comprises 10 units out of the whole development of 25 loft apartments, which are located within a refurbished Victorian former school building, which is locally listed.

Under Brighton & Hove planning policy the affordable housing quota will comprise 45% shared ownership and 55% affordable rent, 10% of the affordable units will have to be wheelchair accessible.

The affordable units are located on the ground floor and are therefore provided as follows:-

Apartments 2,3 & 4	3 x 1 Bed Affordable Rent (1 to be provided as wheelchair accessible)
Apartment 6	1 x 2 Bed Affordable Rent
Apartment 1	1 x 3 bed Affordable Rent
Apartment 5,7,9 & 10	4 x 1 bed Shared Ownership
Apartment 11	1 x 2 bed Shared Ownership

I attach a schedule of the accommodation which shows the available units and the floor areas, you will note that these units are all high ceiling units, which enables them to incorporate a mezzanine level for the bedrooms. There is no car parking available to the units within the scheme.

Work upon the development is due to commence shortly and I would be interested to hear if you would be interested in offering for the affordable quota within this development and if so the basis of your financial offer and conditions. If the development is not of interest it would also be helpful to understand why it would not suit your requirements.

I attach:-

- The approved plans
- Existing external and internal photos to give an idea of the style of the building
- Location plan
- Accommodation schedule
- Section 106 Agreement

I look forward to hearing from you.



**CHRIS OAKLEY MRICS | Executive Chairman**  
**Commercial Property, Land and New Homes Office**  
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Hillside Housing Trust Limited, Registered no: 29857R.

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**Sarah Collins**

---

**From:** Russell Drury <Russell.Drury@moat.co.uk>  
**Sent:** 14 May 2018 16:36  
**To:** Chris Oakley  
**Subject:** RE: 87 Preston Road, Brighton - Affordable Housing Section 106 Quota - 10 units

Hi Chris,

Many thanks for providing Moat with this opportunity but it is one I am unable to provide an offer for.

Moat has set some ambitious targets for the number of units we are looking to deliver each year and as a consequence we can no longer offer on schemes which will deliver 20 or less units. Should you have any schemes moving forward that achieve this minimum number then please don't hesitate to contract me and we will consider each on its own merits.

Kind regards

**Russell Drury** | Senior Land and New Business Manager | Moat | 0845 359 6432 | 07711 438 560 [www.moat.co.uk](http://www.moat.co.uk)



---

**From:** Chris Oakley [mailto:chris@oakleyproperty.com]  
**Sent:** 14 May 2018 15:39  
**To:** Russell Drury  
**Subject:** 87 Preston Road, Brighton - Affordable Housing Section 106 Quota - 10 units

Russell

I am instructed by Preston Road Apartments Limited to you the offer the affordable housing made available in their refurbishment of the above site, through the Section 106 Agreement. The affordable housing quota comprises 10 units out of the whole development of 25 loft apartments, which are located within a refurbished Victorian former school building, which is locally listed.

Under Brighton & Hove planning policy the affordable housing quota will comprise 45% shared ownership and 55% affordable rent, 10% of the affordable units will have to be wheelchair accessible.

The affordable units are located on the ground floor and are therefore provided as follows:-

Apartments 2,3 & 4	3 x 1 Bed Affordable Rent (1 to be provided as wheelchair accessible)
Apartment 6	1 x 2 Bed Affordable Rent
Apartment 1	1 x 3 bed Affordable Rent
Apartment 5,7,9 & 10	4 x 1 bed Shared Ownership
Apartment 11	1 x 2 bed Shared Ownership

I attach a schedule of the accommodation which shows the available units and the floor areas, you will note that these units are all high ceiling units, which enables them to incorporate a mezzanine level for the bedrooms. There is no car parking available to the units within the scheme.

Work upon the development is due to commence shortly and I would be interested to hear if you would be interested in offering for the affordable quota within this development and if so the basis of your financial offer and conditions. If the development is not of interest it would also be helpful to understand why it would not suit your requirements.

I attach:-

The approved plans  
Existing external and internal photos to give an idea of the style of the building  
Location plan  
Accommodation schedule  
Section 106 Agreement

I look forward to hearing from you.




**CHRIS OAKLEY MRICS | Executive Chairman**  
**Commercial Property, Land and New Homes Office**  
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


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## Sarah Collins

---

**From:** Matthew Beard <Matthew.Beard@clarionhg.com>  
**Sent:** 01 May 2018 08:46  
**To:** Chris Oakley  
**Subject:** RE: 87 Preston Road, Brighton - Affordable Housing Section 106 Quota Available

Hi Chris ,

Thank you for giving us the opportunity of bidding for the affordable element on this project.

Unfortunately our current new business strategy limits the size of development opportunities to 50 units or above, so in this instance we will have to decline.

Even if we did not have this restriction , there are issues with the proposed affordable housing scheme, which would probably preclude us for taking up this opportunity.

Issues include:-

- 7 X 1 bed flats may well result in management problems and have difficulty with sales
- Some of the unit sizes do not meet Nationally Described Space Standards, which are important to us, as our homes will be fully occupied.
- The provision of a wheelchair unit is questionable due to lack of parking, duplex layout and tortuous route to get into flat
- The duplex nature of the units will not prove popular as the usable space for fully occupied homes will be restricted

Hopefully you will have other opportunities we can offer on in the future.

Kind regards

Matthew

**Matthew Beard** MRICS  
**New Business Manager**  
**Clarion Housing Group**  
Upton House 7 Perrymount Road, Haywards Heath, West Sussex  
RH16 3TN  
Tel 0208 3153 006 mobile 07976 009 549

---

**From:** Chris Oakley [mailto:chris@oakleyproperty.com]  
**Sent:** 30 April 2018 16:30  
**To:** Matthew Beard  
**Subject:** 87 Preston Road, Brighton - Affordable Housing Section 106 Quota Available

Matthew

I am instructed by Preston Road Apartments Limited to offer you the affordable housing made available in their refurbishment of the above site, through the Section 106 Agreement. The affordable housing quota comprises 10 units out of the whole development of 25 loft apartments, which are located within a refurbished Victorian former school building, which is locally listed.

Under Brighton & Hove planning policy the affordable housing quota will comprise 45% shared ownership and 55% affordable rent, 10% of the affordable units will have to be wheelchair accessible.

The affordable units are located on the ground floor and are therefore provided as follows:-

Apartments 2,3 & 4	3 x 1 Bed Affordable Rent (1 to be provided as wheelchair accessible)
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Apartment 5,7,9 & 10	4 x 1 bed Shared Ownership
Apartment 11	1 x 2 bed Shared Ownership

I attach a schedule of the accommodation which shows the available units and the floor areas, you will note that these units are all high ceiling units, which enables them to incorporate a mezzanine level for the bedrooms. There is no car parking available to the units within the scheme.

Work upon the development is due to commence shortly and I would be interested to hear if you would be interested in offering for the affordable quota within this development and if so the basis of your financial offer and conditions. If the development is not of interest it would also be helpful to understand why it would not suit your requirements.

I attach:-

- The approved plans
- Existing external and internal photos to give an idea of the style of the building
- Location plan
- Accommodation schedule
- Section 106 Agreement

I look forward to hearing from you.



**CHRIS OAKLEY MRICS | Executive Chairman**  
**Commercial Property, Land and New Homes Office**  
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## Sarah Collins

---

**From:** Gray, Michael <MICHAEL.GRAY@guinness.org.uk>  
**Sent:** 30 April 2018 17:05  
**To:** Chris Oakley  
**Subject:** RE: 87 Preston Road, Brighton - Affordable Housing Section 106 Quota Available

Dear Chris.

Thank you for contacting me regarding this opportunity.

Unfortunately, I must decline to submit an offer for the affordable element of this scheme. If I am interpreting the plans correctly, the affordable homes are located in the same block as the market sale units. We generally struggle to manage mixed tenure schemes of this scale where we don't own the freehold and can't control the maintenance of the building.

At least one of the affordable rent units looks as if it is sharing the communal corridor and common parts with the leasehold dwellings. We have found that this arrangement creates management difficulties between the different tenures, with the leasehold dwellings paying for the maintenance of the common parts via their service charge and the rented dwellings only paying for cleaning etc. (eg. if a rented tenant damages the paintwork in the hallway they do not have to pay for redecoration but the leaseholder does).

The design of the units, whilst being very attractive as a sale product, would not be ideal for affordable rent. Guinness has refurbished similar buildings in the past with high ceilings and large windows. We have found that some affordable rent tenants have struggled with the higher than average heating bills and even struggle to afford the curtains needed for the larger windows (you may remember the Newlands Court development in Seaford where we had this problem in a number of flats).

I am sorry I am unable to make an offer for this one but wish you luck with the development.

Thanks

Michael Gray  
New Business Manager  
The Guinness Partnership  
Mobile: 07973 225625  
Email: [michael.gray@guinness.org.uk](mailto:michael.gray@guinness.org.uk) Website: [www.guinnesspartnership.com](http://www.guinnesspartnership.com)

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**From:** Chris Oakley [mailto:[chris@oakleyproperty.com](mailto:chris@oakleyproperty.com)]  
**Sent:** 30 April 2018 16:15  
**To:** Gray, Michael <MICHAEL.GRAY@guinness.org.uk>  
**Subject:** 87 Preston Road, Brighton - Affordable Housing Section 106 Quota Available

Michael

I am instructed by Preston Road Apartments Limited to offer you the affordable housing made available in their refurbishment of the above site, through the Section 106 Agreement. The affordable housing quota comprises 10 units out of the whole development of 25 loft apartments, which are located within a refurbished Victorian former school building, which is locally listed.

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I look forward to hearing from you.



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The registered office of each company within the Guinness Partnership group is 30 Brock Street, Regents Place, London, NW1 3FG.



**Sarah Collins**

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**From:** Ade Ellett <ade@alignedproperty.com>  
**Sent:** 24 July 2018 14:57  
**To:** Ade  
**Subject:** Fwd: Preston rd

Begin forwarded message:

**From:** Chris Oakley <chris@oakleyproperty.com>  
**Subject:** FW: Preston rd  
**Date:** 24 July 2018 at 10:29:05 BST  
**To:** Ade Ellett <ade@alignedproperty.com>

Ade I have discussed this with Southern Housing Group, reluctantly they will take 10 shared ownership units in the scheme, as confirmed below, but this is smaller than the minimum they would normally take, so I am pleased they have confirmed this.

---

**From:** Scott House <Scott.House@shgroup.org.uk>  
**Date:** Tuesday, 24 July 2018 at 10:27  
**To:** Chris Oakley <chris@oakleyproperty.com>  
**Cc:** Jeremy Bar/3 <Jeremy.Barkway@shgroup.org.uk>  
**Subject:** RE: Preston rd

Hi Chris  
Further to our conversation we would still be interested in shared ownership units at this location but really we would be looking for a minimum of 10 units.  
Many thanks  
Scott

---





# **ITEM A**

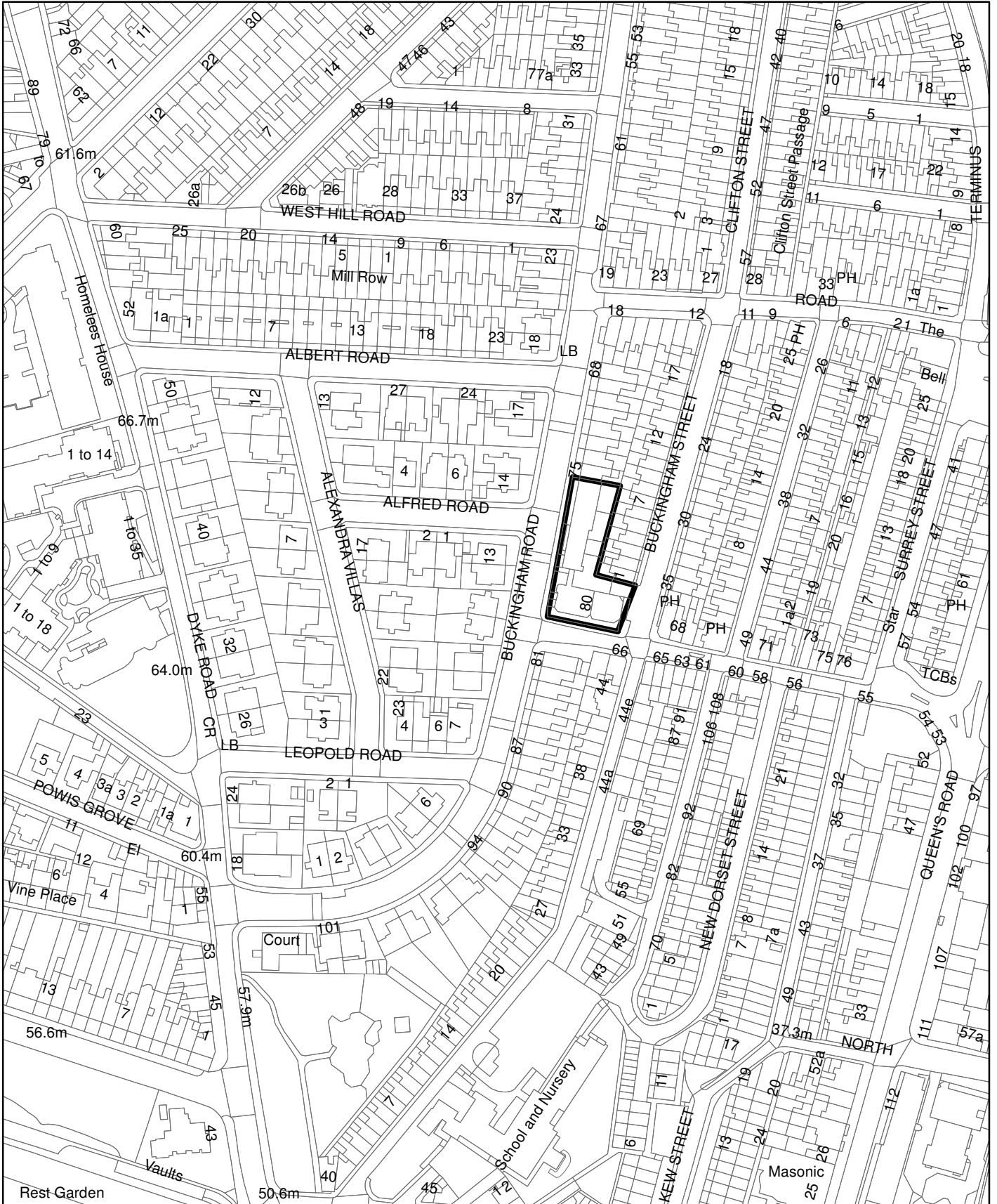
**76-79 and 80 Buckingham Road, Brighton**

**BH2018/01137**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2018/01137 76-79 and 80 Buckingham Road, Brighton



Scale: 1:2,133



<b><u>No:</u></b>	<b>BH2018/01137</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>76-79 And 80 Buckingham Road Brighton BN1 3RJ</b>		
<b><u>Proposal:</u></b>	<b>Partial demolition of no. 80 Buckingham Road erection of a five storey building over basement including roof accommodation to create 20no. dwelling units (C3) and community use unit (D1). Conversion of nos. 76-79 Buckingham Road to provide 14no. dwelling units (C3) with associated car parking, cycle parking, landscaping and service provision.</b>		
<b><u>Officer:</u></b>	Joanne Doyle, tel: 292198	<b><u>Valid Date:</u></b>	23.04.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	23.07.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	ECE Planning Limited Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road
<b><u>Applicant:</u></b>	Buckingham Developments (Brighton) Ltd Brooklyn Chambers	C/O ECE Planning	11 Goring Road Worthing BN12 4AP

## 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 Obligation and the conditions and informatives as set out hereunder **SAVE THAT** should the s106 Planning Obligation not be completed on or before 5<sup>th</sup> December 2017, the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10 of this report.
- 1.2 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 £29,894;
  - Open Space contribution of £97,568.61;
  - The production of an Employment and Training Strategy;
  - Local Employment Scheme contribution of £9,600;
  - Construction Training and Employment Strategy including a commitment to using 20 percent local employment during the demolition and construction phases of the development
  - Sustainable Transport contribution of £16,500
  - Travel Plan Measures
  - Two years' membership of the local car club
  - A 12-month season ticket for buses in Brighton & Hove

Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor Plans Proposed	413.SK.003D (SECOND FLOOR)	D	19 June 2018
Block Plan	413.SK.007	A	12 April 2018
Floor Plans Proposed	413.SK.00G (LOWER GROUND)	G	12 April 2018
Floor Plans Proposed	413.SK.001F (GROUND FLOOR)	F	12 April 2018
Floor Plans Proposed	413.SK.002D (FIRST FLOOR)	D	19 June 2018
Floor Plans Proposed	413.SK.004E (THIRD FLOOR)	E	10 July 2018
Roof Plan Proposed	413.SK.006C (ROOF)	C	10 July 2018
Elevations Proposed	413.SK.200C (BUCKINGHAM ROAD)	C	19 June 2018
Elevations Proposed	413.SK.201D (BUCKINGHAM STREET)	D	10 July 2018
Elevations Proposed	413.SK.202C (UPPER GLOCESTER RO)	C	19 June 2018
Elevations Proposed	413.SK.203D (BUCK STREET REAR)	D	19 June 2018
Elevations Proposed	413.SK.204F (COURTYARD)	F	3 July 2018
Location Plan	413.SK.008	-	12 April 2018
Floor Plans Proposed	413.SK.005C (FOURTH FLOOR)	C	10 July 2018

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. 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.
  
5. 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.
  
6. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
  - a) samples of all brick, 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.
  
7. The community use and communal garden hereby permitted shall not be operated or open to the public outside the following hours; 8am-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.
  
8. 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.

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

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

10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a method statement to identify, risk assess and address the unidentified contaminants. Verification of the steps taken to protect human health including photographs, consignment notes and invoices for example for barrier pipework shall be provided. The structure shall not be lived in. The structure shall not have a water infrastructure applied to it until this condition is satisfied.

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

11. No development above ground floor slab level of any part of the development hereby permitted shall take place until, 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.

12. No development above ground floor slab level of any part of the development hereby permitted 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.

13.No development above ground floor slab level of any part of the development hereby permitted shall take place until the mitigation measures outlined in the Anderson Acoustic reports, including revision April 2018, must be implemented and tested to verify performance, and shall thereafter be retained as such.

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

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

- a) Removal of the existing ambulance bay that will become redundant due to this development on Buckingham Street. The ambulance bay is recessed into the footway and the Highway Authority would want to see this area back to being public footpath and the footway and kerb edge to be reconstructed and reinstated up to the point to the basement entry point.
- b) Relocation of the communal bins adjacent to the Buckingham Street ambulance bay;
- c) Replacement of any existing footway surfaces or kerbs that have been damaged around the site due to this development

**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.

15. 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.

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

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14.

17. 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.

18. 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% CO<sub>2</sub> improvement over Building Regulations requirements Part L 2013 (TER Baseline).

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

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 new build dwellings within 80 Buckingham Road 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. No development above ground floor slab shall take place until elevational landscaping drawings 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 Brighton & Hove City Plan Part One.

22. 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.

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 staff and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPD14: Parking Standards.

24. The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details 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, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

25. 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.

26. 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.

27. 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 April 2018 (2852\_004R\_2-0\_JB):

- a) In-duct intake and exhaust silencers fitted to air source pumps;
- b) 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;
- c) Strategic duct termination away from sensitive windows;
- d) 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.

28. Prior to first occupation of the development hereby permitted, the removal of asbestos containing materials shall be carried out.

**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.

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 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.

## **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 for the demolition of an unlisted building in a Conservation Area and for a residential-led mixed use redevelopment was approved under application BH2016/01766. The application proposed the creation of 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 (D1 use class). The proposed unit sizes were 6 x 1 bed, 13 x 2 bed, and 5 x 3+ bed homes.

Following this a pre-application (ref: PRE2017/00211) was submitted proposing the provision of a higher number of dwellings by subdividing the townhouses into 14 flats (instead of 4 houses as previously approved) including revisions to the scheme, namely to remove the D1 floorspace and reuse (rather than demolish) the existing structural frame of 80 Buckingham Road.

- 2.6 The current application has taken into account the advice given at the pre application stage namely support for the re-use of the structural frame at number 80 and the retention of an element of D1 community use. The proposed unit sizes within the 5-storey building at no.80 Buckingham Road are 5 x 1 bed, 14 x 2 bed and 1 x 3 bed and 12 x 2 bed and 2 x 1 bed units within 76-79 Buckingham Road. Associated car parking, cycle parking, landscaping and servicing provision is also provided. The proposal is for partial demolition as works have started on the site at no.80 Buckingham Road with the structural frame of the building being re-used. During the course of the application the design of the scheme has been amended on the advice of the Heritage team to incorporate the design elements proposed under application BH2016/01766 and an amendment to the roof detail of the Buckingham Street elevation to no. 80.
- 2.7 Other minor changes from the approved scheme BH2016/01766 (following amendments) are:
- Changes to the Buckingham Street elevation (at no. 80) to include the relocation of the undercroft parking and minor external alterations.
  - Window reconfiguration and minor detailing.
  - Minor changes to internal layout, mainly at lower ground floor level at 80 Buckingham Road.

### 3. RELEVANT HISTORY

PRE2017/00211- Conversion of nos 76-79 Buckingham Road to provide 14no. residential units (C3). Remodelling and retention of no. 80 Buckingham Road to create a five storey building consisting of 20no. residential units (C3).

BH2016/01766- 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. Approved on 11.08.2017.

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.

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.

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.

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 One (1)** letter of representation has been received commenting that:

- The proposal is an improvement to the previous application and the inclusion of 14 affordable social rented flats is welcomed
- Some of the 20 private market flats should be sold as shared ownership homes
- Consideration should be given to providing a warden for the block of 34 flats
- A small number of additional car parking spaces should be provided as the number provided would put pressure on residents parking in the wider area

**4.2 Two (2)** letters of representations have been received objecting to the proposal for the following reasons:

- The proposal would result in increased noise and disturbance from the coming and going of traffic
- The proposal would have a detrimental impact on noise, pollution and parking provision in the local area
- The transport assessment based on the 2011 census is outdated as a number of things have changed in Brighton and Hove since then
- The access to the parking spaces appears tight
- The building is too high and out of scale in the conservation area
- The current form and structure should be retained
- The housing should all be for affordable housing and social housing
- Objection to large scale building works, to profiteering by Buckingham Development

#### **5. CONSULTATIONS**

##### **External**

**5.1 Sussex Police:** No objection

The principles of Secured by Design should be adhered to.

**5.2 County Archaeologist:** No objection

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.

**5.3 County Ecologist:** No objection

As the current application will result in no material external differences to the previously approved scheme, and given the minimal ecological value of the site, my previous comments (submitted 26/07/16) would also apply to the current application. As before, the applicants should seek opportunities to enhance the site for biodiversity, e.g. through the use of species of known wildlife value in the landscaping scheme, the provision of green (biodiverse) walls and/or roofs,

and/or the provision of bird boxes which should target species of local conservation concern. 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. 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.

**5.4 Environment Agency:** No comment

**5.5 Conservation Advisory Group:** No objection

The Group recommends APPROVAL whilst also recommending that the railings to No. 80 are of a more substantial (contemporary) design and painted black to make reference to the 19th C. cast iron railings existing at Nos 76-79 and elsewhere in Buckingham Road. The Group would like clarification of the style of roof proposed for the link building: is it to be flat or pitched? The Group insists that the historic E.J. Marshall, Eric Gill, plaque is removed as agreed before by Tilley's before works start, and repositioned into the finished No 80, its original site, together with an informative plaque about the new building. This must be with consultation and direction from the Council Plaque Panel. The Group would expect that as the previous owner did agree, historic street name plates would be installed at the developer's cost replacing existing signs to five roads near the site, Alfred Road, Albert Road, Upper Gloucester Road, Buckingham Road, and Buckingham Street. The Group noted the excellent Heritage Officer Report for the very similar 2016 application and recommends it here for further guidance.

**Internal**

**5.6 Sustainability Officer:** No Comment

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

**5.7 Heritage Officer:** Following amendments- No objection- 10.05.2018

The submitted amended plans have addressed the concerns raised in the initial heritage comments subject to recommended conditions.

**5.8 Planning Policy:** Comment

The principle of residential development on the site has been established through the permitting of application BH2016/01766. The application currently under consideration is similar to that application but proposes 14 flats at Nos 76-79 Buckingham Road rather than four residential dwellings. The increased number of residential units is welcomed and provides a greater contribution towards the city's housing target as set out in City Plan Policy CP1. The proposed number of dwellings and housing mix at no. 80 remains the same as that in previous application and no concerns are therefore raised with regard to



City Plan Policy CP19 (housing mix). The 14 residential units are nos. 76-79 are all indicated to be affordable. This results in an overall affordable housing provision of 41%, in excess of that required by City Plan Policy CP20, and is strongly welcomed. Whilst it is disappointing that no larger (3 bedroom) dwellings are proposed as a response to the city's needs for larger dwellings set out in the supporting text to Policy CP19, the delivery of a policy compliant level of affordable housing means that no objection is raised on this point. The loss of the existing community facilities was considered during the determination of the previous application and was found to be acceptable in the context of Local Plan Policy HO20. The revised application also retains a community use within the new development and this is welcomed.

#### **5.9 Waste Management**

Policy WMP3d of the Waste and Minerals Plan requires development proposals to minimise and manage waste produced during construction demolition and excavation. A Site Waste Management Plan should be required by condition. Paragraph 49 of the National Planning Practice Guidance provides guidance on what could be covered in the SWMP in order to meet the requirements of the policy<sup>1</sup>. 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. The location of recycling facilities is indicated on the submitted plans and no concerns are raised with regard to this policy.

#### **5.10 Environmental Health: No objection**

Recommend approval subject to conditions. The proposal is in a densely populated area and there is a need for effective implementation of full construction environment management plan. Anderson Acoustic report revised April 2018 was considered alongside the contaminated land investigations. The EA need to be consultees as the piling may alter the groundwater.

#### **5.11 Education Officer: No objection**

We seek contributions where there is a demonstrable need for additional pupils. In this instance we will not be seeking a contribution in respect of primary education places as there are sufficient primary places in this part of the city and the city overall. A contribution of £29,894 is therefore sought toward secondary education in line with the Council's contributions policy.

#### **5.12 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.

#### Further comment - 29.06.2018

The access adjacent to the terraced houses to the north is as existing. Therefore, while it's not absolutely ideal (from a pedestrian visibility point of view - vision of children will be obscured by the wall around the adjacent front garden) it does not warrant refusal.

#### **5.13 City Regeneration: No objection**

The provision 32 dwellings (net) is welcomed and will contribute towards the city's challenging targets for new homes.

An Employment and Training Strategy will be required in addition to developer contributions of £9,600 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 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. It is against this

minimum housing requirement that the City's five year housing land supply position is assessed annually.

8.3 The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published later this year. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

**8.4 Principle of development:**

The principle of residential development has been established by extant permission BH2016/01766 which approved the demolition of the existing building at no. 80 Buckingham Road and the conversion of nos. 76-79 Buckingham Road to deliver 24 gross residential units and a small re-provision of D1 community floorspace. Some work on site is underway, namely the stripping back of no. 80 Buckingham Road.

**8.5 Community Use / Former Mental Health Use**

The loss of the existing community facilities was assessed and accepted through the approval of the previous application BH2016/01766. This current application includes the provision of 64sqm of D1 community space with an active 'shop window' frontage onto the junction of Buckingham Street and Upper Gloucester Road. The assessment and conclusions made under the previous application remain, whereby sufficient marketing for potential uses, including community use, had been undertaken (unsuccessfully) and that the provision of a smaller amount of floor space to continue some community use on site was considered acceptable and sufficient to comply with criteria (a) and (d) of Policy HO20. The retention of this space will be secured by condition.

**8.6 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 32 net units this would be 12.8; the City Council would therefore require 13 affordable units on-site to ensure the 40% requirement is met. The applicant is proposing 14 at no's 76-79 Buckingham Road to be affordable. This results in an overall affordable housing provision of 44%, in excess of the requirement of City Plan Part 1 Policy CP20. To meet the Affordable Housing Brief the applicant is proposing 55% Affordable Housing for Rent and 45% shared ownership. 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.

**8.7 Design and Appearance:**

Redeveloping 80 Buckingham Road complies with Local Plan Policy HE8 as the existing building is visually harmful to the special interest of the conservation area and its demolition is supported on heritage grounds.

The external alterations to the Victorian terrace of 76-79 Buckingham Road are largely restorative in removing some of the external changes made to accommodate the former health care 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.

The proposed scheme density of 262 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.

The redevelopment of 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.

As viewed from Buckingham Road, the eaves and storey heights of the development 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.

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.

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.

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 in considering application BH2016/01766 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.

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.

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.

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.

In design terms there is no objection to the minor changes to the scheme in comparison to the approved scheme, which mainly includes the reconfiguration of window openings and minor detailing and the relocation of the undercroft parking access on the Buckingham Street elevation.

## **8.8 Standard of accommodation**

The Council uses the Department for Communities and Local Government - Technical housing standards - nationally described space standards (March 2015) as a useful reference point for residential standards. All units meet or exceed this guidance with functional layouts and adequate light and outlook.

Policy HO5 requires the provision of private useable amenity space for occupiers, appropriate to the scale and character of the development. The application indicates every residential unit at 80 Buckingham Road will have access to private amenity space in the form of balconies ranging in size from 4sqm to 17.5sqm and a shared courtyard which is a positive design merit. The ground floor flats at 76- 79 Buckingham Road will have access to private rear

gardens and although the upper flats at 76-79 would not have the benefit of private amenity space this lack of outside space is acceptable for flats in a 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). In terms of Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) the 14no flats within 76-79 Buckingham Road has stepped access and therefore only the flats within 80 Buckingham Road will be conditioned to comply with requirement M4(2).

### **8.9 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.

- 8.10 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.
- 8.11 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.
- 8.12 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:
- 8.13 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.
- 8.14 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.

- 8.15 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.
- 8.16 The impact of the development was considered in full under the previously approved application BH2016/01766 in terms of overshadowing, loss of light, loss of outlook and loss of privacy. There have been no fundamental changes which would lead to a differing conclusion.
- 8.17 The previous application considered the impact the development would have on the adjacent Edinburgh Public House and was considered that given that the proposed development was located across of the road and the limited number of proposed units fronting Buckingham Street, the development was not considered to constitute a risk to the future operation of the public house.
- 8.18 The previous application considered the potential future use of the D1 community unit and its potential impact on the future occupants of the new building at no. 80. It was considered that whilst some D1 uses may cause more disturbance than others given the relatively small size unit and a condition limiting its hours of operation there would be no significant harm. This application has slightly increased the D1 floorspace by 0.5sqm, which given this small size would not result in additional harm and a condition limiting its future use is not necessary on amenity grounds.
- 8.19 It is not considered that the subdivision of 76-79 Buckingham Road into 14no flats rather than 4no separate houses as proposed under the previous application would result in significant amenity harm. There would be a more intensive use of the properties as flats and a greater impact on the immediate and surrounding area, however the increased impact likely to be caused in this case would not be of a magnitude which would cause demonstrable harm to neighbouring amenity, particularly in an area where there are a number of properties subdivided into flats.
- 8.20 It is not considered that the relocation of the undercroft parking access on the Buckingham Street adjacent to the terraced houses to the north would have a detrimental impact in terms of noise/traffic disturbance given that the frequent comings and goings would be minimal for the number of car parking spaces.
- 8.21 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. There is no objection to the access to the undercroft parking from Buckingham Street.
- 8.22 The proposed quantity of cycle parking is broadly meets SPD14 guidance standards; however there is concern that the proposed cycle parking does not meet the accessible and convenient requirements as set out in policy TR14. Therefore, a condition will be attached to secure details of secure cycle parking



in line with policy TR14 as considered within the Highways Authority consultation response.

8.23 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.

8.24 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.

**8.25 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.

8.26 The Landscaping Strategy in the Design and Access Statement states that the landscaping will be the same as that proposed under application BH2016/01766 which 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. No plans detailing the landscaping have been submitted and therefore landscaping plans will be sought via condition.

8.27 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.

**8.28 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 £97, 568.61 would be required to address the generated demand for open space and indoor sport.

**8.29 Other matters:**

This application has been considered under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) for its potential impacts on the Natura 2000 (European) sites. A pre-screening exercise has been undertaken

which has concluded that there is no potential for in-combination "likely significant effects" on European sites and therefore it is not necessary to carry out further appropriate assessment under the Habitats Regulations.

### **8.30 106 Agreement:**

In the event that the draft S106 agreement has not been signed by all parties, the application shall be refused for the following reasons:

1. The proposed development fails to provide 40% affordable housing at a tenure split of 55% social/affordable rent and 45% Intermediate (shared ownership) contrary to policy CP20 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance, notwithstanding that the applicant's own Financial Viability Appraisal demonstrated that the scheme could viably provide 20% (33) affordable units as verified by the District Valuer Service.
2. The proposed development fails to provide a financial contribution towards the improvement and expansion of capacity of local schools required as a result of this proposed development contrary to policies DA5 and CP7 of the City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
3. The proposed development fails to provide a financial contribution towards the improvement and expansion of open space and recreation in the vicinity of the site required as a result of this proposed development contrary to policies DA5, CP7 and CP16 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
4. The proposed development fails to provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policies CP2 and CP7 of the Brighton & Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
5. The proposed development fails to provide an Employment and Training Strategy targeting a minimum of 20% local employment for the construction phase of the proposed development contrary to policies CP2 and CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
6. The proposed development fails to provide a financial contribution towards sustainable transport measures contrary to policies DA5, CP7 and CP9 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
7. The proposed development fails to provide a Framework Travel Plan to provide sustainable transport measures and incentives for the occupants of the proposed development contrary to policies TR4 of the Brighton and Hove Local Plan and DA5, CP7 and CP9 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

**9. EQUALITIES**

9.1 Two units have been provided as wheelchair accessible homes.



## **ITEM B**

**Preston Barracks, Mithras House, Watts  
Building, Lewes Road, Brighton**

**BH2018/01181**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2018/01002 Preston Barracks Mithras Hse Watts Bdg Brighton



**Scale: 1:3,224**





<b><u>No:</u></b>	<b>BH2018/01181</b>	<b><u>Ward:</u></b>	<b>Hollingdean And Stanmer Ward</b>
<b><u>App Type:</u></b>	<b>Reserved Matters</b>		
<b><u>Address:</u></b>	<b>Preston Barracks, Mithras House, Watt Building Lewes Road Brighton BN2 4GL</b>		
<b><u>Proposal:</u></b>	<b>Reserved matters application pursuant to outline permission BH2017/00492, as amended by BH2018/00636 and BH2018/01002, for approval of layout, scale and appearance relating to the University's proposed Business School and Linked Canopy, forming defined site parcels 1 and 2 respectively.</b>		
<b><u>Officer:</u></b>	<b>Sarah Collins, tel: 292232</b>	<b><u>Valid Date:</u></b>	<b>16.04.2018</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>16.07.2018</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	<b>NTR Planning Clareville House 26-27 Oxendon Street London SW1Y 4EL</b>		
<b><u>Applicant:</u></b>	<b>The University Of Brighton And Cathedral (Preston Barracks) University of Brighton Mithras House Lewes Road Brighton BN2 4AT</b>		

## 1. RECOMMENDATION

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

### Conditions:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	PL-0301	S2.P3	16 April 2018
Block Plan Proposed	PL-0302	S2.P3	16 April 2018
Block Plan Proposed	PL-0501	S2.P3	16 April 2018
Floor Plans Proposed	PL-1100	S2.P3	16 April 2018
Floor Plans Proposed	PL-1101	S2.P3	16 April 2018
Floor Plans Proposed	PL-1102	S2.P3	16 April 2018
Floor Plans Proposed	PL-1103	S2.P3	16 April 2018
Floor Plans Proposed	PL-1104	S2.P3	16 April 2018
Floor Plans Proposed	PL-1105	S2.P3	16 April 2018
Floor Plans Proposed	PL-1106	S2.P3	16 April 2018
Roof Plan Proposed	PL-1107	S2.P3	16 April 2018
Roof Plan Proposed	PL-0502	S2.P3	16 April 2018
Elevations Proposed	PL-2001	S2.P3	16 April 2018
Elevations Proposed	PL-2100	S2.P3	16 April 2018

Elevations Proposed	PL-2101	S2.P3	16 April 2018
Elevations Proposed	PL-2102	S2.P3	16 April 2018
Elevations Proposed	PL-2103	S2.P3	16 April 2018
Sections Proposed	PL-3100	S2.P3	16 April 2018
Sections Proposed	PL-3101	S2.P3	16 April 2018
Sections Proposed	PL-3102	S2.P3	16 April 2018

2. Prior to commencement of development above slab level of the Business School/Academic Building, details of the signage/branding and/or artwork for the blank external wall on the south elevation shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** In order to ensure a high quality external appearance is achieved and to comply with policies CP12 and CP13 of the Brighton and Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised to enter into pre-application discussions relating to the Watts site and conditions 9, 10 and 59 with the council arboriculturist that may include the following:
  - a) a site visit to establish the exact distance from the retained trees that piling is to take place;
  - b) suitable tree protection methods, and
  - c) suitable landscaping close to trees to be retained.
3. It is recommended that the main pedestrian ground floor entrances to the Academic Building are wheelchair accessible and automated to ensure inclusive access for all, which should be shown on the plans/drawings submitted to comply with condition 51 of the outline consent.
4. It is recommended that 1.2m hedges or a suitable alternative at minimum 1.2m height is provided in order to provide adequate wind mitigation for the southeast corner of the Academic building, and that details of this are included within the landscaping proposals required by condition 59 of the outline consent.

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The Watts site forms part of the wider Masterplan site known as Momentum Lewes Road, which consists of four land parcels:
- 1) The former Preston Barracks Site;
  - 2) The University of Brighton Mithras House car park;
  - 3) The University of Brighton Watts Building car park (the 'Watts site'), and
  - 4) The Lewes Road

- 2.2 The masterplan site area covers 5.32 hectares, and the Watts site lies north of the Preston Barracks site on the west side of Lewes Road. The site currently consists of a University car parking area which provides approximately 276 spaces and serves the adjacent 8 storey Watts Building and the 10 storey Cockcroft building amongst other academic buildings to the north of the site. The site extends up to the 'Watts Bank' Site of Nature Conservation Importance (SNCI) to the west. At the western edge of the car park is the Watts Annex building, a modular temporary building accommodating academic support services. The site lies approximately 300 metres distance from Moulsecoomb railway station to the north.
- 2.3 This application seeks approval of the Reserved Matters (condition 4) of the Outline consent (BH2017/00492 as amended by BH2018/00636 and BH2018/01002) for parcels 1 and 2 of the Watts site (Business School and canopy respectively):
- (i) Layout;
  - (ii) Scale;
  - (iii) Appearance.
- 2.4 Although layout and scale have been reserved by condition, both of these elements were considered under the original application as part of the Environmental Impact Assessment (EIA). This EIA included parameter plans which established an acceptable envelope of built development in environmental terms for the provision of the new Business School/Academic Building.
- 2.5 This reserved matters application proposes minor changes to the outline proposals and the detailed design, through detailed site plans and floor plans to confirm the layout, and elevations and sections to confirm the scale and appearance of the development (parcels 1 and 2). Planning Committee resolved to grant the reserved matters application for parcels 3 and 4 (multi-storey car park and access road) on 18<sup>th</sup> July, subject to a deed of variation to the s106 agreement which is currently being drafted.
- 2.6 The main changes to the outline proposals for parcels 1 and 2 are as follows:
- Increase of internal building floorspace (under detailed proposals) from 6,400 sq.m GIA to 7,090 sq.m GIA to accommodate the Welcome and Engage Facility and provide more useable internal floorspace. Despite the increase in floorspace the proposed building envelope remains within the originally approved EIA parameters plan; the west elevation has been set in by 1.5 metres, the south elevation has been set in by 3 metres, and the east elevation has been set in by 1m in comparison with the EIA parameters plan;
  - With the finalisation of the mechanical and electrical strategy for the building following the progression from outline to detailed design a flue has been added at roof level extending above the maximum EIA parameter height by 1.83m. The flue is required to provide an appropriate plant extract to meet emission dispersion requirements in accordance with air quality standards; and

- Removal of the canopy within site parcel 2 of the Watts site as a result of the University's preference for a single square canopy to the north, to be proposed through a subsequent planning application.
- 2.7 The New Academic Building will comprise a mix of flexible general purpose teaching spaces for use by the wider campus, dedicated business school learning spaces and computer labs, informal learning environments to encourage social interaction and flexible individual or group learning and open plan workplace to accommodate the business school staff.
- 2.8 The ground floor is entirely given over to public uses and contains the campus welcome & engage, a new front door to the campus and flexible event space to accommodate anything from a networking business event, art installation or fashion shows. The ground floor also contains the Business School enterprise centre and hub, a space to encourage engagement between students and wider industry and businesses. A publicly accessible café would be provided at first floor mezzanine level.

## 2.9 Pre-Application Discussions

These detailed proposals have been influenced by pre-application submissions and presentations to Officers, Members and the Design Review Panel under pre-app ref: PRE2017/00302.

- 2.10 The Design Panel response was, in summary, as follows:  
*This thoughtfully considered proposal is a positive addition to the Preston Park masterplan, and we commend the ambition to welcome the public, as well as academic staff and students into the building. Innovative façade proposals and the dramatic route through the atrium space are particularly successful, and in general we feel the building design has developed well. In order to continue improving the scheme, a more responsive approach to the varying conditions on the different sides of the building should be taken, and the way the ground floor event space could be used further explored.*  
*Our main area of concern is in how surrounding public spaces are resolved and we feel Bridge Square in particular requires further development. At the lower level, potential conflicts between vehicles and pedestrians should be tested further, and at the upper level, consideration should be given into how this could become a more valuable amenity space.*
- 2.11 The Members' response was, in summary:  
*The proposed cladding together with the full height glazing to the lower floors, are important elements of the building. Councillors are of the view this will complement the wider development and the University's Moulsecroomb campus.*
- 2.12 *Samples and product specifications of the external materials are requested to be submitted with the reserved matters application.*

[NB: This is already required by condition 5 of the original outline consent therefore this would not be necessary.]

- 2.13 *The loss of the canopy should be justified in the reserved matters submission.*

*Councillors want to understand how the landscaping proposals would be integrated within the overall landscaping proposals linking to the wider Moulsecoomb campus and suggest that an application for the wider landscaping works should be submitted at the same time as the reserved matters. The reserved matters should also include full details of all hard and soft landscaping, including the design of the seating in this area.*

[NB: The reserved matters includes only parcels 1 and 2 and not the landscaping, therefore the applicant is not required to submit landscaping details for this application. The landscaping details are to be submitted under condition 59 of the original consent, and a key consideration will be how the landscaping on each parcel integrates with the wider campus and masterplan site.]

## **2. RELEVANT HISTORY**

### **BH2018/00689**

Reserved matters application pursuant to outline permission BH2017/00492 for approval of layout, scale and appearance relating to the University's proposed multi-storey car park and access road, forming defined site parcels 3 and 4 respectively. Committee Resolved to Grant 18.07.2018 subject to deed of variation to s106 agreement.

### **BH2018/01002**

Application for variation of condition 1 of application BH2017/00492 (see original description) as amended by BH2018/00636 in order to make changes to the Central Research Laboratory (CRL), including changes to the external facade and roof profile, single storey front and side extensions, internal reconfiguration to provide an additional 498sqm GEA employment floorspace (Class B1) and changes to the access arrangements into and within the building. Approved 20.07.2018

### **BH2018/00636**

Non Material Amendment to BH2017/00492 to revise extent of Parcel 3 (Multi Storey Car Park) and Parcel 4 (Access Road). Approved 26.03.2018

### **BH2017/00492**

(Full application) Preston Barracks Parcel: Demolition of existing buildings and construction of (B1) 7 storey Central Research Laboratory, Student Accommodation (Sui Gen) providing 534 bed spaces within 3 blocks of 13, 11 and 15 storeys, 369 (C3) residential units in 8 Blocks with a range between 2 and 10 storeys, 264sq.m workshop space (B1), 301sq.m flexible commercial space (A1/A3/B1), 334sq.m retail space (A1/A3), parking, public realm works and landscaping.

Mithras Parcel: Demolition of existing building (Steam House) and construction of a mixed use Campus Development consisting of Student Accommodation (Sui Gen) providing 804 bed spaces within five blocks, Block 1 (10 storeys), Block 2 (18 Storeys), Block 3 (10 storeys), Block 4 (12 storeys) and Block 5 (9 storeys), 596 sq. m of student services including students union and welfare

facilities (Sui Gen), 898 sq. m gymnasium (D2), and associated ancillary development, including provision of 13 disabled parking spaces serving the student accommodation, cycle parking, public realm works and landscaping improvements.

Lewes Road: Installation of new signalised crossroads and T Junction, pedestrian crossings and footway improvements, erection of pedestrian and cyclists bridge crossing Lewes Road.

(Outline Application) Watts Parcel: Removal of existing Watts House temporary building and erection of a 6 storey (D1) Academic Building for a Business School of 6,400 sq. m of floorspace, linked canopy and provision of 551 space multi storey car park to the rear (maximum 8 storeys) with associated ancillary development, including provision of cycle parking, access and servicing road, public realm and landscaping improvements.

Approved 22.12.2017

### **3. REPRESENTATIONS**

3.1 No letters have been received.

### **4. CONSULTATIONS**

#### **4.1 Arboriculture: No objection**

Summary of comments:

These comments are based on parcels 1 and 2 of the development and the changes to the position of the building and its impact on existing trees.

The small movement of the east elevation of the proposed (academic) building away from these important trees will be a slight improvement to the long term health and retention of them. The removal of the canopy area along the northern elevation of the building will remove the future maintenance concerns and future pressure to prune the trees at a higher frequency. Both these changes will lessen the impact to trees at this location and the arboricultural team have no objection to the changes subject to the following recommendations:

Details of tree protection, levels and landscaping will be submitted through conditions 9 (tree protection), 10 (Levels survey) and 59 (landscaping) from planning application BH2017/00492 (as amended by BH2018/01002) therefore these conditions do not need to be re-applied to this application.

However, an informative should be added to request that the applicant enters into pre-application discussions relating to the Watts site and conditions 9, 10 and 59 with the council arboriculturist, that may include a site visit, to establish the exact distance from the trees that the piling is to take place, suitable tree protection methods, and the proposed landscaping close to trees to be retained.

#### **4.2 Sustainable Transport: No objection**

Summary of comments:

Most transport matters associated with this development are already addressed separately via the parent application or other neighbouring sites associated with this – particularly the proposed Watts Multi-Storey Car Park that will provide all

associated parking and which is the subject of a concurrent application (BH2018/00689). Therefore the Highway Authority has no objections to the proposed development subject to the inclusion of a condition requiring further details of proposed access doors.

## **5. MATERIAL CONSIDERATIONS**

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

5.2 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.

5.3 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.

## **6. POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
DA3 Lewes Road  
CP2 Sustainable economic development  
CP7 Infrastructure and developer contributions  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP10 Biodiversity  
CP12 Urban design  
CP13 Public streets and spaces  
CP18 Healthy city

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

TR7 Safe Development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD5 Design - street frontages  
QD16 Trees and hedgerows  
QD27 Protection of amenity

Supplementary Planning Guidance:  
SPD14      Parking Standards

Supplementary Planning Documents:  
SPD06      Trees & Development Sites

Lewes Road (Preston Barracks and University of Brighton) Planning Brief (2011)

## **7. CONSIDERATIONS & ASSESSMENT**

7.1 The main considerations in the determination of this application relate to the layout, scale and appearance of the Business School (Academic Building), the removal of the canopy from parcel 2, the accessibility of the Academic Building and the potential impact of the development on the environment, the local highway network and the street scene.

### **7.2 Removal of the Canopy**

The principle of removing the canopy was discussed with Officers at pre-application stage. Although the canopy indicated at outline stage was considered to add strength to the presence and identity to the Business School/Academic Building and this part of the campus, it is accepted by Officers that the canopy would create maintenance difficulties with both the canopy and the buildings attached to it, and would potentially threaten the health of nearby trees due to increased pressure to lop branches, and it is considered that the removal of the canopy from this area would not undermine the appearance and design of the Academic Building.

### **7.3 Scale**

The scale of the Academic Building is within the EIA parameters of the outline consent, and therefore the potential environmental impact of a building of this scale has already been agreed as acceptable in the outline application. The Ramboll letter submitted with this application confirms that the quantum of academic (class D1) floorspace in GIA assessed through the original EIA was 6,400sqm and potential for a roof terrace with a maximum height of 28m and a building footprint of 30m x 62m. The details hereby submitted confirm a GIA floor space of 7,090sqm, a maximum height of 26.84m (flue height of 29.83m), and a footprint of 27.5m x 56m at its maximum (upper levels).

7.4 The Ramboll letter confirms that *“the proposed increase in gross external floorspace (GEA) would not affect the trip generation forecasts as no growth is planned at the campus, either in terms of staff or students, and therefore the increase in GEA for the Academic Building is not expected to generate any additional trips. Access arrangements to the Academic Building via the new signalised junction off Lewes Road, would remain as previously assessed. Moreover, the provision of car, cycle and motorcycle parking spaces would remain unchanged given that there is no growth anticipated at the campus. Accordingly, the conclusions of the February 2017 EIA... remain valid.”*



- 7.5 The comments from Sustainable Transport on this application conclude that there would likely be a small increase in trip generation associated with the increase in floor space from the outline consent, but that many of the trips are likely to be on foot or sustainable modes, given the location of the building within the University campus and the nearby student accommodation that is anticipated to come forward through the masterplan consent. On this basis, the proposed increase in floorspace will not be likely to generate a greater impact on the local highway network than anticipated and accounted for in the outline consent and no further sustainable transport contribution is sought through this application.
- 7.6 The cycle parking facilities, refuse collection, and delivery and services management plans are already required to be submitted via conditions 33, 6, and 35 respectively, therefore it is not necessary to require a further condition requiring these details under this application.
- 7.7 The flues on the roof is the one element of the detailed design that goes beyond the parameters of the outline consent, which would extend 1.83m above the EIA height parameter. However, the Design & Access Statement submitted with this application demonstrates that the flues are positioned so that they are set back from the Lewes Road frontage and would not be visible from the immediate street scene. They would be visible from longer views but it is considered that the flues are a necessary element in order for the building to function efficiently and need to be at least 3m above the nearest windows due to air quality considerations. They are located in a small cluster fairly centrally on the roof and are slim in profile, and as such it is considered that the flues would not detrimentally affect the overall appearance of the building or the wider street scene.
- 7.8 Policy DA3(B) of the City Plan Part One seeks 16,000sqm of Business School and additional academic floor space through the strategic allocations within the policy (which includes two other sites along Lewes Road: Woollards Field South and Former Falmer High School) and through allocations made in the City Plan Part Two. The Lewes Road Planning Brief (2011) which helped inform the City Plan Part One policy DA3 indicated that a business school of 8,000sqm would be delivered through the redevelopment masterplan. Therefore the increase in Business School/academic floor space from from 6,400 sq.m GIA to 7,090 sq.m GIA would bring the D1 floor space closer to the 8,000sqm anticipated in the Development Plan and is considered to be acceptable in this respect.
- 7.9 Layout**  
The position of the building is similar to the position indicated at outline stage. The movement of the west elevation 1.5m further east would increase the gap between the building and the multi-storey car park to 9 metres, which is considered to be a positive change, allowing greater light into the gap which would assist the establishment and long-term maintenance of the green wall and planting beds along the east elevation of the multi-storey car park, and would allow more space for vehicles, cyclists and pedestrians to move safely between these buildings.

- 7.10 The movement of the building further north, creating a larger spill-out area to the south side of the Academic Building is in response to the Design Review Panel comments, and is considered would potentially create a more successful congregation space and entrance for students, staff and visitors to the building.
- 7.11 Overall, the position of the building is considered to be appropriate in terms of providing suitable external circulation space and landscaping features.
- 7.12 The internal layout would enable public access into the lower floors of the building, which is considered to be a positive progression in the design as it would allow the public to be part of the campus activities and use the café. This would help to activate and enliven the street scene and strengthen connections between the University and the local population. The use of the building for the Business School as well as for other teaching facilities and events associated with the University allows for flexible and adaptable use of the building.
- 7.13 The building would have two lift and stair cores at the northern and southern ends of the building and level access would be provided into the building. Details of entrances are required by condition 51 of the outline consent, and it is recommended by Sustainable Transport that the main pedestrian ground floor entrances to the building are wheelchair accessible and automated for the benefit of less ambulant pedestrians and to ensure inclusive access for all. This should be included as an informative.
- 7.14 Appearance**
- The indicative appearance of the building provided in the outline application has not been significantly altered – the upper floors create a simple box shape with its windows veiled by white tiles of subtly varying matt/gloss finish and varying degrees of perforation (a combination of open/closed tiles). The external treatment is intended to create the impression of a floating structure, increasing in lightness towards the top of the building. The two lower floors are to be fully glazed around the main atrium and event spaces and will be set in from the upper levels to provide a shaded external area around the building which will add to the floating impression of the upper floors. The tiled veil of the upper floors has been further developed through testing of internal light levels and in response to pre-application discussions, which is set out in the Design & Access Statement.
- 7.15 The Design Review Panel response generally supported the building's external appearance and suitably dramatic interior, but included a recommendation to make better recognition of the southern elevation which will be clearly visible from Business School Square and Lewes Road and will experience high footfalls. The Panel advised the applicant to address the blank wall on the southwest corner and to increase the spill-out area around the southern entrance. In response the blank wall is indicated as an area for signage/branding or artwork and the wall is to be finished in textured concrete with a concealed concrete door.

- 7.16 It is recommended that a condition be added to a consent requiring details of the signage/branding and/or artwork for this wall to be submitted prior to commencement of works above slab level, in order to ensure a high quality external appearance is achieved.
- 7.17 The roof proposes a clean parapet design to conceal roof and plant elements from view at street level within the immediate vicinity of the building. Given the location within the valley floor the design and layout of the roof and plant areas respond to this: an open mesh screen is wrapped over the roof plant area to protect and partially screen the equipment from view from neighbouring buildings. Indicative views of the academic building are provided from the upper floors of student blocks 7 and 8 and Mithras block 1 of the approved masterplan scheme (page 58 of the Design & Access Statement).
- 7.18 A single flue does extend higher than the parapet line. This is a thin element and has been located towards the rear (west side) of the roof to ensure it is not visible from within the immediate vicinity and Lewes Road (see Design & Access Statement page 53, which demonstrates that the flues would not be visible from even the upper floors of the houses on the opposite side of Lewes Road, nor from Business School Square or the Pedestrian Bridge of the approved masterplan). The flue is required for the safe discharge of combustion gases from the gas fired water heater, gas fired boilers and emergency life safety generator. By regulation (1993 & 1956 Clean Air Act), this flue must discharge 3 meters above adjacent window openings (the horizontal louvres around the skylight).
- 7.19 It is considered that the building would be a high quality, unique piece of architecture that would be a positive addition to the University campus and would integrate successfully into the wider masterplan and campus.
- 7.20 Details and samples of the external materials are already required to be submitted by condition 5 of the outline consent.
- 7.21 Details (including 1:20 scale drawings) of the windows, cladding/brickwork and entrances of the Business School (Academic Building) are already required to be submitted by condition 51 of the outline consent.
- 7.22 The landscaping details are to be determined through submission of details required by condition 59 of the outline consent.
- 7.23 Sustainability:**  
It has been confirmed that the energy centre/boiler would meet the 40 mg/kwh maximum levels for NOx emissions so as to fall within 'safe limits' that would not detrimentally affect local air quality. Accordingly, it is accepted that the conclusion of the air quality assessment as presented in the February 2017 ES, that the potential for significant impacts on air quality is negligible, remain valid, as set out in the Ramboll letter submitted with the application.
- 7.24 Previously it was proposed that the building would be fully mechanically ventilated. However, it is now proposed that the building would be largely

naturally ventilated with only the areas of high cooling demand (computer labs, meeting rooms and the large lecture theatre) being served mechanically. The veiled façade will assist in reducing solar gain and the large skylight will enable the effective ventilation of the building. The use of energy efficient LED lighting throughout the building, and the addition of an extensive array of PV panels on the roof, as well as solar thermal collectors will also improve the energy performance of the building.

- 7.25 Details of the PV panels on the Business School (Academic Building) are already required to be submitted by condition 46 of the outline consent.
- 7.26 The requirement for the Business School (Academic Building) to achieve BREEAM new construction rating of 'Excellent' is already secured by condition 11 of the outline consent.

## **8. Other Considerations:**

The Tree Officer has no objection to the proposed details of parcels 1 and 2 and has suggested the following informative be added to a consent:

- 8.1 The applicant is requested to enter into pre-application discussions relating to the Watts site and conditions 9, 10 and 59 with the council arboriculturist, that may include a site visit, to establish: the exact distance from the retained trees that piling is to take place, suitable tree protection methods, and suitable landscaping close to trees to be retained.
- 8.2 The Ramboll letter includes an update to the wind microclimate assessment of the EIA for the outline application. This concludes that the Academic Building is located in the calmer area of the masterplan area and that the wind conditions would be suitable for the required standing use at the entrances to the building, with the tested landscaping in situ. The tested landscaping comprises the trees along the Lewes frontage to the east of the building and 1.2m hedges. The removal of the canopy is concluded to be unlikely to have a significant effect given the relatively sheltered location to the north and east of the Academic building and the multi-storey car park and to the south of the Watts building. It is recommended that an informative is added:
- 8.3 It is recommended that 1.2m hedges or a suitable alternative at minimum 1.2m height is provided in order to provide adequate wind mitigation for the southeast corner of the Academic building, and that details are included within the landscaping proposals required by condition 59 of the outline consent.
- 8.4 The Ramboll letter includes an analysis by GLHearn of internal daylight levels likely to be received within the Academic building. This confirms that the BRE guidance does not provide minimum daylight values relating to non-residential buildings, however, the Council's pre-app response required an analysis of internal daylight due to concern over the effect of the tiled façade extending across windows. However, the results show that daylight provision within rooms not affected by the proximity of adjacent buildings (the multi-storey car park) is appropriate for the building use. As such, it is shown that the façade treatment would not overly burden the daylight provision within the proposed building. On

this basis it is considered that the internal daylight levels would be acceptable for the D1 use proposed.

**9. EQUALITIES**

- 9.1 The Layout section above sets out that the proposed development would provide level access into and within the building. In addition, it is recommended that entrance doors are automated which can be added as an informative to include within the details required for submission through condition 51 of the outline consent.



# **ITEM C**

**64 St James's Street, Brighton**

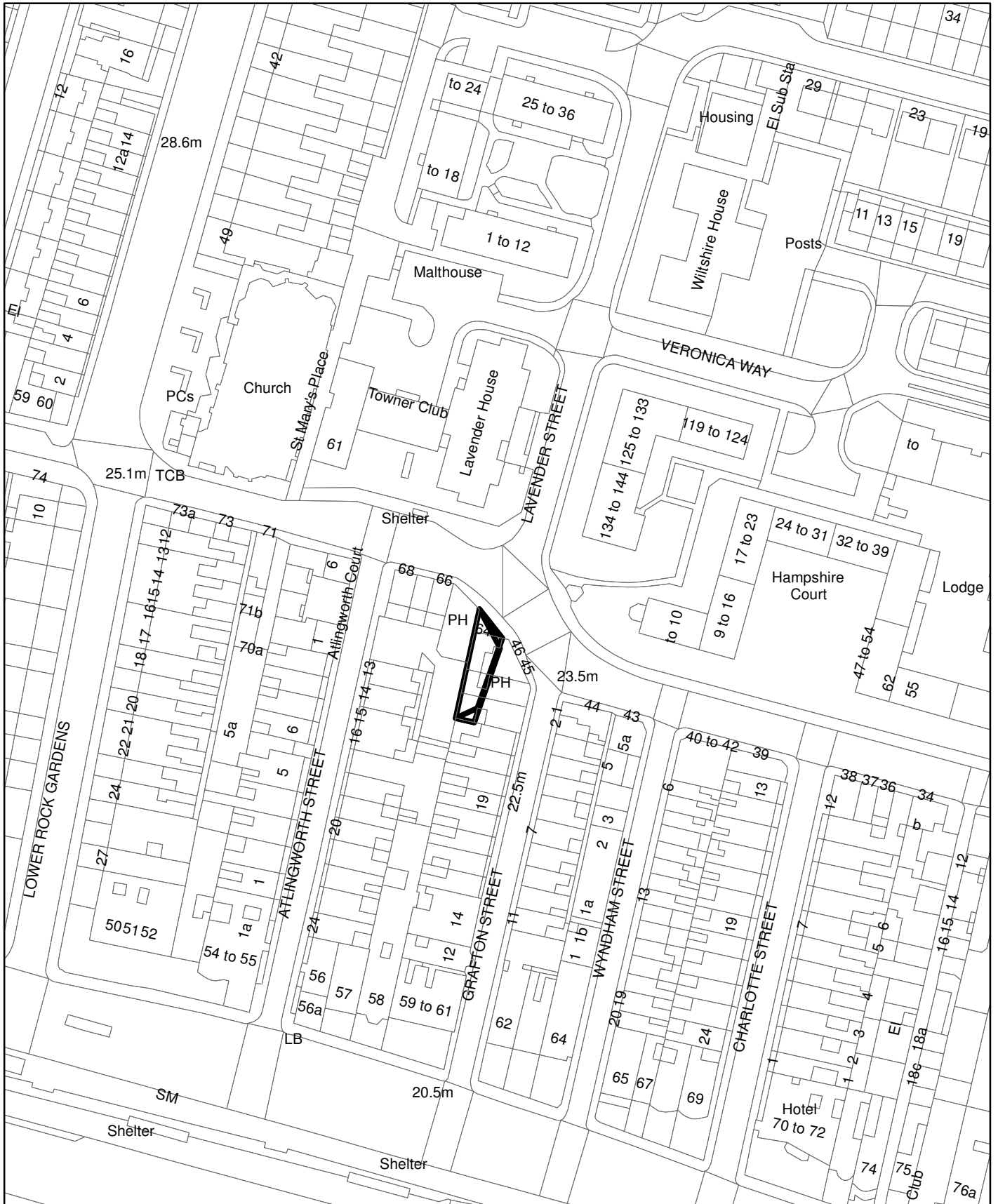
**BH2017/04113**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**





# BH2017/04113 64 St James's Street Brighton



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2017/04113</b>	<b><u>Ward:</u></b>	<b>Queen's Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>64 St James's Street Brighton BN2 1PJ</b>		
<b><u>Proposal:</u></b>	<b>Part demolition of existing building. Erection of three storey extension to front elevation and creation of additional storey to rear elevation to facilitate enlargement of studio apartment to two bedroom apartment and associated works.</b>		
<b><u>Officer:</u></b>	Sonia Gillam, tel: 292265	<b><u>Valid Date:</u></b>	16.01.2018
<b><u>Con Area:</u></b>	East Cliff	<b><u>Expiry Date:</u></b>	13.03.2018
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mr Ian Boyd Flat 3 32 Sussex Square Brighton BN2 5AB		
<b><u>Applicant:</u></b>	Miss Laura Lockwood 7 Howick Place London SW1P 1BB		

## 1. RECOMMENDATION

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

Conditions:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	064_01		13 December 2017
Block Plan	064_02		13 December 2017
Existing Floor Plans	064_03		16 January 2018
Existing Elevations	064_04		16 January 2018
Floor Plans Proposed	064_05	C	23 April 2018
Elevations Proposed	064_06	C	23 April 2018

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 extended Class A2 use hereby permitted shall not be open to customers except between the hours of 08:00 and 21:00.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan

4. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policy QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.
5. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
  - b) samples of all cladding to be used, including details of their treatment to protect against weathering
  - c) samples of all hard surfacing materials
  - d) samples of the proposed window, door and balcony treatments
  - e) samples of all other materials to be used externally
- Development shall be carried out in accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.
6. No development above ground floor slab shall take place until full details of the proposed external windows and doors including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections, to include sections through openings indicating reveal depth and cill profiles, 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 Brighton & Hove City Plan Part One.
7. No development above ground floor slab shall take place until full details of the proposed elevations and sections of the proposed glazing system/shopfront at a scale of 1:20 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 Brighton & Hove City Plan Part One.
8. No development above ground floor slab shall take place until full details of the proposed railings 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 Brighton & Hove City Plan Part One.

Informatives:

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

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The site comprises a two-storey infill structure which is located between a three storey public house to the west and a single storey building occupied by a hair and beauty salon to the east. The building fronts onto the south side of St James Street, opposite the junction with Lavender Street, and is located in St Georges Road local shopping centre, and the East Cliff conservation area.
- 2.2 Planning permission was granted in 2009 for use of the property as an A2 Estate Agents. This appears to be the last known use of the property up until August 2016. The property is currently vacant. There is a residential unit at first floor level with a roof terrace.
- 2.3 Planning permission is sought for part demolition of existing building. Erection of three storey extension to front elevation and creation of additional storey to rear elevation to facilitate enlargement of studio apartment to two bedroom apartment, enlargement of A2 unit at basement level and associated works. The A2 use would be retained at ground floor and (enlarged) basement level. A similar scheme was approved in 2012 (BH2011/036310).
- 2.4 Amendments have been received during the life of the application in response to Heritage concerns:
  - Lower overall height
  - Deletion of roof terrace
  - Copper Roof: concave shape and stronger eaves and fascia
  - Visible pitched roof
  - Deletion uPVC material windows and doors.
- 2.5 As there was a decrease in height, and no increase in massing or footprint, no further public consultation was undertaken as the amendments were not considered to be prejudicial to the determination of the application.

**3. RELEVANT HISTORY**

**PRE2017/00194** pre-application advice on proposal to demolish the existing building (A2) and development of a single dwelling house.

**BH2012/02364** Application for Approval of Details Reserved by Condition 5 of application BH2011/03631. Approved 23.07.2013.

**BH2011/03631** Erection of three storey extension to create new front facade and shopfront, rear extension to create second floor above existing two storey building and installation of new windows to side of first floor studio flat. Approved 03.07.2012.

**BH2009/00720** Change of use from A1 Retail to A2 Professional Office (Retrospective) - approved 21/05/2009.

**BH2008/03057** Demolition of facade and infill between pub (A4) and beauticians (SG08). Forming of maisonette and A1 unit - refused 22/01/2009.

**BH2008/01839** Demolition of façade and new infill between existing pub and beautician. Formation of maisonette and change of use from A1 (retail) to A2 (estate agent) - withdrawn 29.09.08.

**BH2005/02398/FP** Remodelling of shop front and upper parts (resubmission) - approved 25.11.05.

**BH2005/00218/FP** Demolition of existing shop and studio and redevelopment forming shop with maisonette over - withdrawn 07.03.05.

**BH2001/02725/FP** Change of use from storage to greengrocers (use class A1) - approved 10.01.02.

#### **4. REPRESENTATIONS**

**4.1 Five (5)** letters has been received, including one from the Regency Society, objecting to the proposed development. The main grounds for objection are as follows:

- Overdevelopment
- Poor utilitarian design
- Excessive size
- Roof terrace will cause harm to appearance
- Overshadowing
- Will obscure signage
- Impact on drains
- Loss of privacy
- Inaccuracy in plans
- Potential noise complaints due to proximity of pub
- Security impact
- Disruption from build

#### **5. CONSULTATIONS**

**5.2 Heritage:** No objection subject to conditions with regard to detailaing.

**5.3 Sustainable Transport:** No objection

- 5.4 Conservation Advisory Group: Objection** This part of the street retains its late Victorian quirkiness of styles and roof levels which presently added to the character of the CA. The proposed windows are not traditional in design, pvc not suitable and the roof terrace is not suitable in this location in the CA.

## **6. MATERIAL CONSIDERATIONS**

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2 The development plan is:  
Brighton & Hove City Plan Part One (adopted March 2016);  
Brighton & Hove Local Plan 2005 (retained policies March 2016);  
East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);  
East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.3 Due weight 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
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP12 Urban design
- CP14 Housing density
- CP15 Heritage

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

- TR7 Safe Development
- TR14 Cycle access and parking
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- QD5 Design - street frontages
- QD10 Shopfronts
- QD14 Extensions and alterations
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO9 Residential conversions and the retention of smaller dwellings
- HO13 Accessible housing and lifetime homes

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

Supplementary Planning Documents:

- SPD02 Shop Front Design
- SPD03 Construction & Demolition Waste
- SPD09 Architectural Features
- SPD12 Design Guide for Extensions and Alterations
- SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this planning application are the impact on the building, the impact on the character and appearance of the local centre and the East Cliff Conservation Area, highways, and neighbour amenity impact. Concerns relating to disruption during the build are noted, but this is not a material planning consideration.
- 8.2 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. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2017 SHLAA Update (February 2018) which demonstrates a 5.0 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.
- 8.3 Planning Policy:**  
The site is located in the St George's Road, Kemp Town local centre. Brighton and Hove Local Plan policy SR6 (Local Centres) seeks to maintain and enhance local centres, primarily by protecting A1 uses at ground floor level. There would be no change to the composition of the local centre, with an A2 unit retained at ground floor level with residential above. Therefore there is no conflict with local plan policy SR6.
- 8.4 Design and Appearance:**  
The existing unassuming building occupies a narrow plot and is lower than the terrace to the west, as well as being set back from the general frontage. It is an unusual element of the street scene, and due to the single storey property to the east it is prominent in views from the east and north east, where its long slate roof is a noticeable feature.
- 8.5 The Council's Heritage Officer has no objection to the loss of the undistinguished front façade of this building or to moving the building line forward to form a less abrupt change in line and to mask the extensive side wall of the pub and advertising panel. The curved corner is considered to be a valid approach to softening the change in building lines. Overall, subject to conditions re materials and large scale details, the design is considered to be acceptable, in terms of impact on the streetscene and conservation area.



## **8.6 Standard of accommodation**

Whilst the Council does not yet have a policy requiring compliance with the nationally described space standards, they are a useful point of reference. The two storey, two bedroom (4 persons) standard is 79m<sup>2</sup>. The proposed dwelling would measure 70m<sup>2</sup> with good levels of lights and circulation space, and with outdoor amenity space in the form of a terrace. Therefore the standard of accommodation is considered acceptable in this instance.

## **8.7 Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

8.8 The dwelling would be sited above an A2 premises, however this is not likely to be noisy by nature and the hours of use can be controlled by condition. There has been concern voiced by the adjacent public house landlord re potential noise impact from the pub courtyard on the new residents; this is noted, however as there is existing residential accommodation at the site, this concern is not exacerbated beyond the current situation.

8.9 The application proposes to retain an A2 unit at ground floor level, with residential accommodation retained at first floor level with a proposed additional storey of residential accommodation at second floor level. There will be several new windows proposed to the eastern elevation. These windows are not considered to give rise to any undue overlooking or loss of privacy, as they overlook a single storey building situated to the east of the site.

8.10 The first floor rear terrace associated with the existing flat is to remain unchanged and thus there would be no difference in impact from the existing situation. There is a Juliet balcony proposed at second floor level to the rear, above the existing terrace. This would provide some level of overlooking, particularly of the adjacent pub courtyard, however not in such an intensified manner so as to warrant refusal of the application.

8.11 The proposed scheme includes a larger building on the site of the existing by virtue of the forward and upward extensions. These could have implications in terms of overshadowing, loss of light and overbearing impact. However, taken in context with the surrounding buildings, a three storey public house to the west and a single storey retail unit to the east, this ensures that there would be no direct impacts on residential properties. As such the proposal is acceptable in these respects.

## **8.12 Sustainable Transport:**

The proposals may result in a slight uplift in trips; however, it is not considered that this will have a significant impact upon surrounding highway and transportation networks.

- 8.13 No parking is proposed; however, there is an existing dwelling on site and it is not considered that likely levels of additional on-street parking demand arising from the enlargement of the dwelling could be deemed to amount to a severe impact on the highway in this location.
- 8.14 The applicant appears to be proposing no cycle parking. This proposal would require a minimum of 2-3 spaces in accordance with Parking Standards SPD14. However it is unlikely that such parking could be provided due to site constraints. The Council's Highways team has no objection to scheme on this basis.

## **9. EQUALITIES**

- 9.1 The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. However step-free access to the (new-build) dwelling is not achievable as it is on the first/ second floor.

# **ITEM D**

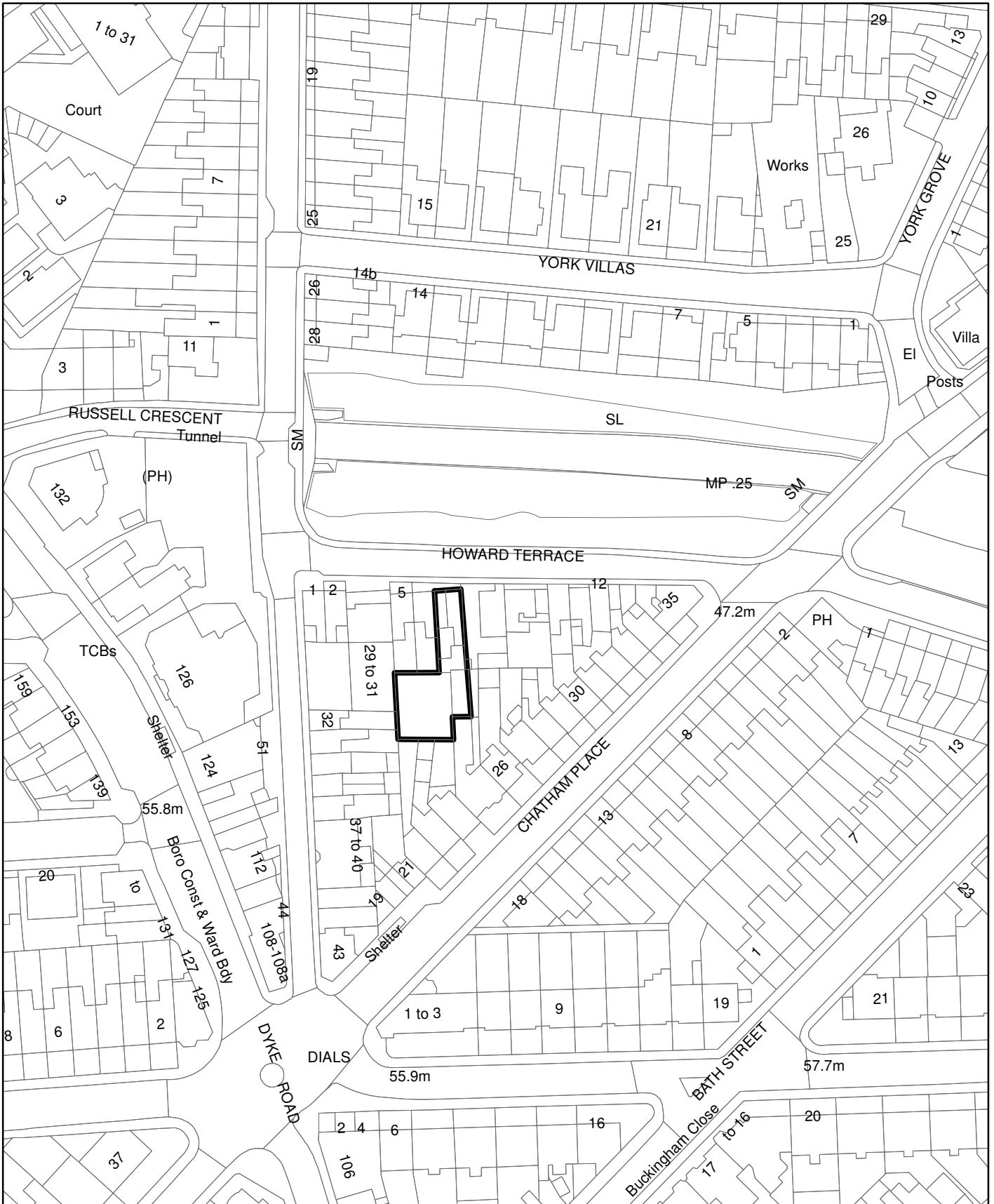
**7 Howard Terrace, Brighton**

**BH2017/03648**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2017/03648 7 Howard Terrace Brighton



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2017/03648</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>7 Howard Terrace Brighton BN1 3TR</b>		
<b><u>Proposal:</u></b>	<b>Change of use and part demolition of existing storage buildings (B8) to form of 1x one bed flat, 1x two bed flat, 2x three bedroom houses, cycle storage and associated works.</b>		
<b><u>Officer:</u></b>	Sonia Gillam, tel: 292265	<b><u>Valid Date:</u></b>	03.01.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	28.02.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	DowsettMayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		
<b><u>Applicant:</u></b>	Colston Trustees Ltd C/O DowsettMayhew 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Sections Proposed	20	B	31 May 2018
Elevations Proposed	21		31 May 2018
Existing Elevations	07	A	31 May 2018
Location and block plan	01	A	30 May 2018
Roof Plan Proposed	10	A	10 May 2018
Floor Plans Proposed	11	B	10 May 2018
Floor Plans Proposed	12	B	10 May 2018
Elevations Proposed	13		1 November 2017
Sections Proposed	14	B	31 May 2018
Sections Proposed	15	D	31 May 2018
Elevations Proposed	17	B	31 May 2018
Elevations Proposed	18	D	31 May 2018
Elevations Proposed	19	C	10 May 2018
Elevations Proposed	16	B	31 May 2018

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 glazing to all external facades of the buildings shall meet sound levels as set out in table 4 of BS8233:2014.  
**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.
  
4. The hardstanding area as shown on the proposed plan TA 1084/11A received on 11 May 2018 shall not be used for the parking of motor vehicles or for the delivery of goods.  
**Reason:** To safeguard the amenities of the occupiers of the site and nearby properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
  
6. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
  - a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
  - b) samples of all cladding to be used, including details of their treatment to protect against weathering
  - c) samples of all hard surfacing materials
  - d) details of the proposed window, door and balcony treatments
  - e) samples of all other materials to be used externally
 Development shall be carried out in accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
  
7. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:
  - (a) a desk top study documenting all the previous and existing land uses of the site and adjacent land and the nature of any hazards and physical constraints and identifying any gas or chemical analysis which might be necessary in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2011+A1:2013 -Investigation of Potentially Contaminated Sites - Code of Practice;  
and, unless otherwise agreed in writing by the Local Planning Authority,
  - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2011+A1:2013;  
and, unless otherwise agreed in writing by the Local Planning Authority,
  - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed



and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.

**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.

8. The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of part (c) in condition 7 above that any remediation scheme required and approved under the provisions of part (c) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:
- a) as built drawings of the implemented scheme;
  - b) photographs of the remediation works in progress; and
  - c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under part (c) of condition 7 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.

9. Prior to first occupation an adequate ventilation system shall be installed to ensure that the residential units have access to clean air drawn from outside the building without it being necessary to open windows.

**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.

10. Within 6 months of commencement of the development hereby permitted or prior to occupation, whichever is the sooner, a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.

**Reason:** This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

11. Prior to the first occupation of the development hereby permitted the redundant vehicle crossover on Howard Terrace shall have been converted back to a footway by raising the existing kerb and footway.

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

12. The development hereby permitted shall not be occupied until 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.
13. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan and policy CP8 of the Brighton and Hove City Plan Part One.
14. 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 Brighton & Hove City Plan Part One.
15. None of the new build residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
16. The development hereby permitted shall not be occupied until the new build dwellings hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement 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
17. The development hereby permitted shall not be occupied until a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments shall has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to occupation of the development and shall thereafter be retained at all times.

**Reason:** To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

18. Prior to 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 to include type, position, design, dimensions and materials;
  - b. details of all boundary treatments to include type, position, design, dimensions and materials;
  - 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 and location of any trees.

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

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

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the above condition on land contamination has been imposed because the site is known to be or suspected to be contaminated. Please be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. To satisfy the condition a desktop study shall be the very minimum standard accepted. Pending the results of the desk top study, the applicant may have to satisfy the requirements of part (b) and part (c) of condition 7 above. It is strongly recommended that in submitting details in accordance with this condition the applicant has reference to Contaminated Land Report 11, Model Procedures for the Management of Land Contamination. This is available on both the DEFRA website ([www.defra.gov.uk](http://www.defra.gov.uk)) and the Environment Agency website ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)) and <http://webarchive.nationalarchives.gov.uk>

3. The applicant is advised that the scheme required to be submitted by Condition 10 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.
4. The applicant is advised that the proposed highways works should be carried out in accordance with the Council's current standards and specifications and under licence from the Streetworks team. The applicant should contact the Streetworks Team (01273 290729).
5. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
6. The water efficiency standard is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

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

- 2.1 The application site comprises a two storey end of terrace building fronting the southern side of Howard Terrace. There is a single storey store building and a two storey pitched roof building to the rear of the site which comprises storage floorspace at ground floor level and ancillary offices located on a mezzanine level. There is an undercroft vehicular access which runs along the western side of the terraced property and the side of No. 6 Howard Terrace.
- 2.2 The rear building is in warehouse use at ground floor level with offices above. The rooms to the two storey building to the south of the site fronting the road are empty/ used as storage.
- 2.3 The application seeks consent for the demolition of existing rear storage buildings (B8) to form 2x three bedroom houses, and the change of use of the building fronting the road to form 1x one bed flat, 1x two bed flat with cycle storage and associated works.
- 2.4 Amended plans have been received during the life of the application which has reduced the number of dwellings to the rear of the site from three to two, and proposes two flats to the building fronting the road, rather than a single dwellinghouse.

### 3. RELEVANT HISTORY

#### 7 Howard Terrace

**BH2016/02926** Prior approval for change of use from storage (B8) to residential (C3) to form two residential units. Approved 20.12.2016.

**BH1998/01660/FP** Replacement of existing warehouse building at rear of premises with structure of similar height and realignment of roof pitch. Approved 21 September 1998.

**BN77.1937** Addition of first floor office over existing store. Approved 1 November 1977.

**BN76.2661** Small front extension and shopfront to trade counter. Approved 18 January 2977.

**19.62/980** Alterations to store at rear. Approved 19 September 1962.

**19.59/1012** Change of use of first floor from residential to workshop and store. Approved 30 June 1969.

**9.50/108** Bakery with lower part of existing house used as office, upper self-contained flat. Approved 7 February 1950.

#### 8 Howard Terrace

**BH2017/00737** Demolition of existing storage buildings (B8) and erection of 2no three bedroom terrace dwellings (C3) with associated landscaping. Approved 03.10.2017

**BH2016/02925** Prior approval for change of use from storage (B8) to residential (C3) to form two residential units. Approved 20.12.2016.

**BH2016/00392** Prior approval for change of use from storage (B8) to residential (C3) to form 2no residential units. Refused 7 April 2016.

#### 7-8 Howard Terrace

**BH2007/02088** Demolition of existing storage building and construction of new Class B1 offices at ground floor, with 2 two-bedroom flats at first floor level. Conversion of offices at 7 Howard Terrace to form a three-bedroom two-storey town house. Conversion of rear storage building to form additional office space for the existing rear warehouse/office building. Approved 24 August 2007.

**BH2006/01305/FP** Demolition of existing storage building and construction of new Class B1 offices on ground floor, with 2 two-bedroom flats on first floor and a two-bedroom flat on second floor with roof terrace. Conversion of offices at 7 Howard Terrace to form a one-bedroom ground floor flat and a two-bedroom first floor flat. Conversion of rear storage building to form new B1 offices and refurbishment of existing 2 storey warehouse/office building. Withdrawn 18 July 2006.

#### 4. REPRESENTATIONS

4.1 Fifteen (15) letters has been received objecting to the proposed development; the main grounds for objection are as follows:

- Appearance
- Parking issues
- Increased traffic
- Highway safety
- Overdevelopment of site
- Overlooking and loss of privacy
- Increased noise and disturbance
- Cramped development
- Lack of outside space
- Standard of accommodation
- Lack of affordable homes
- Noise from car workshop adjacent
- Strain on local services
- Inaccurate plans
- Noise and dust from development
- Lack of consultation

4.2 One (1) letter has been received supporting the amended proposed development on the following grounds:

- Good design
- Improvement to streetscene
- Attract a good mix of people
- Communal garden providing additional green space

#### 5. CONSULTATIONS

5.1 **Planning Policy:** No objection It is considered that redundancy is satisfactorily demonstrated in the context of Policy CP3. The additional residential units would make a small but useful contribution towards meeting the city's housing target as set out in City Plan Policy CP1.

5.2 **Environmental Health:** No objection subject to condition re land contamination.

5.3 **Sustainable Transport:** No objection subject to conditions re cycle parking and pedestrian crossing improvements.

5.4 **County Archaeologist:** No objection No significant below ground archaeological remains are likely to be affected by these proposals.

5.5 **Brighton and Hove Archaeological Society:** No objection Unaware of any archaeological deposits that are likely to be affected by this 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, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP3 Employment land
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP12 Urban design
- CP14 Housing density
- CP19 Housing mix

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

- 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
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes

#### Supplementary Planning Documents:

- SPD03 Construction & Demolition Waste
- 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, the impact on the character and appearance of the area, impact on neighbour amenity, standard of accommodation provided, highways and sustainability issues.
- 8.2 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. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2017 SHLAA Update (February 2018) which demonstrates a 5.0 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.
- 8.3 Planning Policy:**  
Principle of Development  
The proposal would result in a loss of employment floorspace and City Plan Policy CP3, which seeks to protect employment uses, therefore applies.
- 8.4 It is noted that prior approval was granted through application BH2016/02926 for the change of use from storage (B8) to residential (C3) to form two residential units. A previous application (BH2016/02926) established that the warehouse has operated as B8 storage / warehouse continuously from 1999 until the present day. The granting of the prior approval is a material consideration in the determination of the application as it has already established the principle of the loss of the B8 floorspace as a fall back position.
- 8.5 The proposed development differs from the prior approval as it involves the demolition of the existing rear B8 building rather than conversion, and a greater quantum of new development. The application submission documents refer to the constrained location in a residential area and the poor quality of the existing buildings, together with the fact that the current occupant will be voluntarily vacating on the expiry of the lease.
- 8.6 It is noted that the adjacent property no. 8 Howard Terrace has recent permission for the change of use from B8 to residential. This site has also had a prior approval for the change of use from B8 to C3 residential. As a result of this prior approval application the principle of the loss of this use was not objected to.
- 8.7 Therefore, by virtue of the reasons above, it is considered that the loss of the employment floorspace and the change of use to residential is acceptable in this instance.
- 8.8 Provision of Residential Units  
The additional residential units would make a small but positive contribution towards meeting the city's housing target as set out in City Plan Policy CP1. The



provision of family sized units of two bedrooms and above is also welcomed as an appropriate housing mix in the context of the requirements of Policy CP19.

**8.9 Design and Appearance:**

Policy CP12 of the Brighton and Hove City Plan Part One sets out the design criteria for applications of this nature. This policy requires proposals to raise the standard of architecture and design in the city and respect the character of the city's identified neighbourhoods.

8.10 The NPPF states that good design is a key aspect of sustainable development and that development should function well and add to the overall quality of the area, respond to local character and reflect the identity of the local surroundings.

8.11 The principle of new dwellings on this site is not objected to, however the resulting development should respect its context and should be designed to emphasise and enhance the positive qualities of the local neighbourhood, taking into account the local characteristics in order to accord with design policies in the local plan.

8.12 The proposed dwellings to the rear would not be visible in the streetscene, however they would be visible to occupiers of neighbouring properties. The proposed building would be similar in height and scale to the existing warehouse building. It would comprise of brickwork, a tiled roof and metal window frames. Given the above and the poor quality of the existing warehouse building, the development is appropriate in this location and is therefore considered to be acceptable.

8.13 The rendered building to the front of the site fits in seamlessly to the streetscene which is made up of two storey terraced properties, mainly residential, with some commercial at ground floor level.

**8.14 Amenity for future occupants:**

Standard of accommodation:

Policy QD27 seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF (para 17).

8.15 Government has published room and unit sizes which it considers to represent the minimum acceptable size for rooms and units, in the form of their 'Technical housing standards - nationally described space standard', March 2015. Whilst the Council does not yet have a policy requiring compliance with the nationally described space standards, they are a useful point of reference.

8.16 Plot 3 to the rear proposes a three bedroom (1x double and 2x single) dwelling which would measure 84m<sup>2</sup>. As a point of reference, Government's minimum size for a two storey, three-bedroom (four-person) unit is 84m<sup>2</sup>. Plot 4 to the rear proposes a three bedroom (2x double and 1x single) dwelling which would measure 106m<sup>2</sup>. As a point of reference, Government's minimum size for a two storey, three-bedroom (five-person) unit is 93m<sup>2</sup>.

- 8.16 Both new rear dwellings would benefit from sufficient circulation space and a reasonable standard of light and outlook, although it is acknowledged that the light and outlook to the rear of the Plots 3 and 4 would be somewhat impacted by the two storey commercial building to the west and the retained rear/west wall of the existing building.
- 8.17 With regard to the street front building, the proposed two bedroom (1x double and 1x single) first floor flat would measure 64m<sup>2</sup>, and the proposed one bedroom ground floor flat would measure 44m<sup>2</sup>. As a point of reference, Government's minimum size for a one storey, two-bedroom (three-person) unit is 70m<sup>2</sup>, and a one storey, one-bedroom unit is 50m<sup>2</sup>. Therefore both these units are slightly under government standards.
- 8.18 However, again the dwellings would provide an adequate standard of accommodation in terms of sufficient circulation space, light and outlook. On balance the units are considered to provide an acceptable standard of accommodation.
- 8.19 Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. This can be secured by condition for both new build units.
- 8.20 Refuse and recycling facilities would be sited near the front of the site which is appropriate.
- 8.21 Outdoor amenity space  
Three of the dwellings would benefit from some private outdoor amenity space commensurate with the size of the units and the location, although it is, again, recognised that the gardens to the northern rear unit would be shaded due to the commercial building to the west. However it is noted that the existing single storey store building would be demolished and a good sized communal garden would also be provided in its place.
- 8.22 Noise  
To protect residents from external environmental noise, including that generated from the adjacent vehicle workshop, the Council's Environmental Health Officer has recommended that the remedial glazing and ventilation measures discussed within the submitted acoustic report are implemented. This can be secured by condition.
- 8.23 Impact on Neighbour Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

It is noted that nos. 32-35 Prestonville Road to the west of the site each have a ground floor rear extension which takes up a large part of the rear garden. Potentially there could be views at close proximity of these neighbouring properties and gardens from the dwelling on Plot 4. However revisions to the scheme have been submitted which show the rear/west wall of the existing building retained (or reconstructed to the same height and profile depending on its condition) in order to protect the amenity of the neighbouring occupiers. Clearly as this wall already exists its retention would mean that the existing relationship is maintained with no worsening of light levels or privacy to the existing properties. It is recommended that details of proposed boundary treatments are requested by condition to ensure there are no harmful views from the rear windows.

8.24 The dwelling at Plot 3 would look out onto the wall of the commercial building at nos. 3 and 4 Howard Terrace to the west and would not cause undue overlooking to the properties in Prestonville Road.

8.25 The front windows to the proposed rear building would give views towards the houses and gardens in Howard Terrace, and Chatham Place to a lesser extent. However, again, given the close knit nature of the area, no significant harm is considered to arise in terms of significantly increased overlooking and loss of privacy.

8.26 The building to the front of the site would be unchanged in terms of site and massing and there is not considered to be any adverse impact from the change of use on neighbouring properties.

**8.27 Sustainable Transport:**

The Council's Highways Team has been consulted on the proposed development and has no objections to the scheme.

8.28 There is not forecast to be a significant increase in vehicle trip generation as a result of these proposals therefore any impact on carriageways will be minimal and within their capacity. The application proposed eight cycle parking spaces which is acceptable.

8.29 No car parking spaces are proposed which is deemed acceptable in this case. The site is located within a Controlled Parking Zone (Y). Therefore it is recommended that the site should be made "car free" by restriction of parking permits. It is also recommended that the existing hardstanding area shall not be used for the access or parking of motor vehicles and that the existing vehicular crossover is reinstated to a footpath. These measures can be secured by condition.

**8.30 Sustainability:**

Policy CP8 requires new build development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. This can be secured by condition for the new build dwellings.

**8.31 Other Considerations:**

Given the former use of the site, a contaminated land report has been submitted which states that there are a number of areas which warrant further investigation. The Council's Environmental Health officer is satisfied that a phased contaminated land condition can be applied which includes a desk top study, site investigation and remedial measures.

## **9. EQUALITIES**

- 9.1 The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) dwellings is achievable.

# **ITEM E**

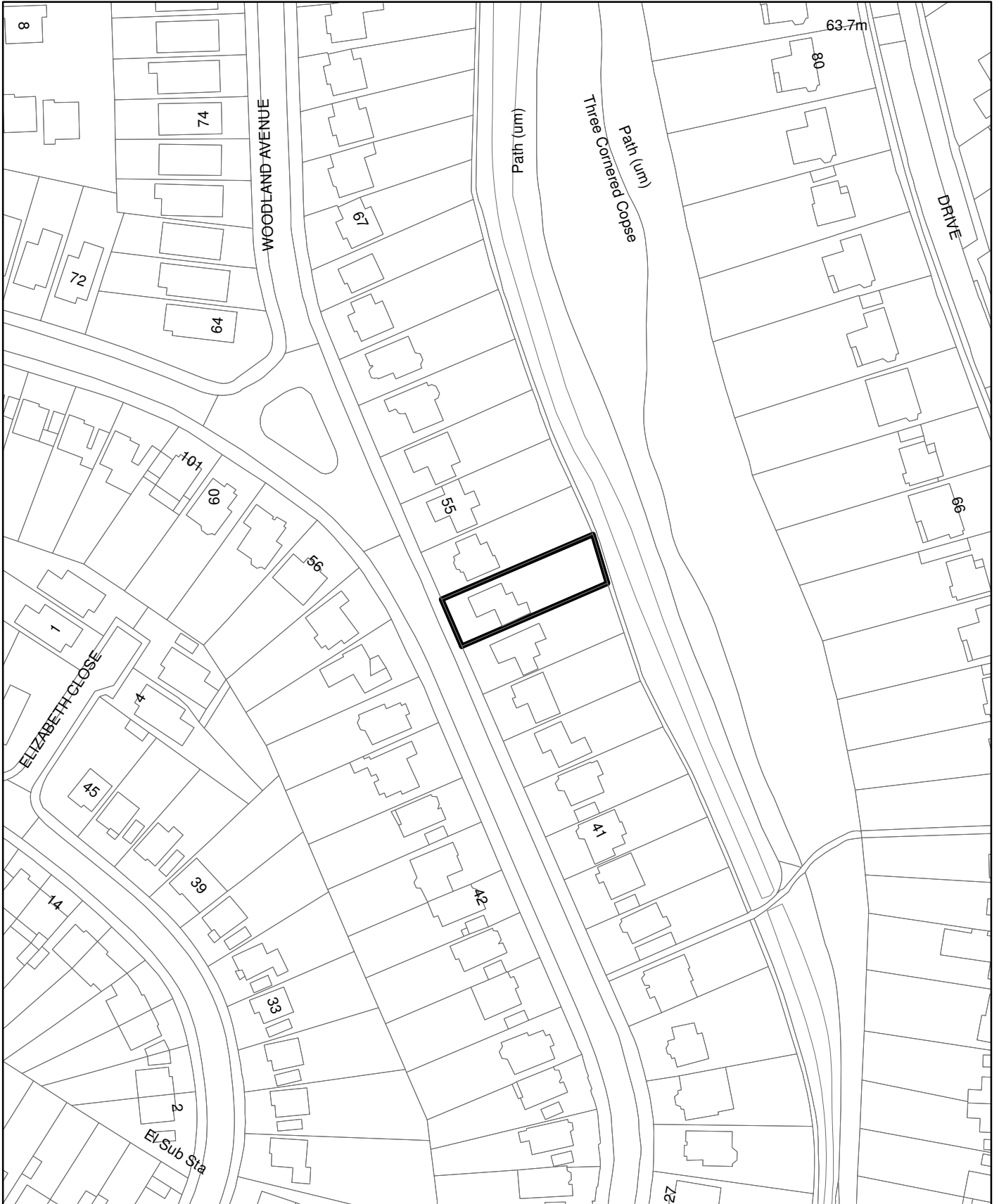
**51 Woodland Avenue, Hove**

**BH2018/00081  
Householder Application**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2018/00081 51 Woodland Avenue Hove



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2018/00081</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>51 Woodland Avenue Hove BN3 6BJ</b>		
<b><u>Proposal:</u></b>	<b>Demolition of single storey rear extension. Erection of a part one part two storey rear extension, single storey side extension and associated works.</b>		
<b><u>Officer:</u></b>	Sam Bethwaite, 292138	tel: <b><u>Valid Date:</u></b>	10.01.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	07.03.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Turner Associates 19A Wilbury Avenue Hove BN3 6HS		
<b><u>Applicant:</u></b>	Mr Romani Latif 51 Woodland Avenue Hove BN3 6BJ		

**Councillor Brown has requested this application is determined by the Planning Committee. This application was deferred from the Planning Committee held on 15.07.2018 so that a site visit could be conducted.**

**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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	TA1091 / 10 C		9 May 2018
Floor Plans Proposed	TA1091 / 11 C		26 June 2018
Elevations Proposed	TA1091 / 12 C		9 May 2018
Elevations Proposed	TA1091 / 13 D		26 June 2018
Sections Proposed	TA1091 / 14		9 May 2018

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

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

3. The first floor windows in the North and South elevations of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

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

Informative: The applicant is advised that the application of translucent film to clear glazed windows does not satisfy the requirements of this condition)

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the application of translucent film to clear glazed windows would not satisfy the requirements of condition 3)

**2. RELEVANT HISTORY**

**BH1999/02858/FP** - Erection of rear PVCu conservatory - Approved 04.01.2000

**BH2000/01974/FP** - Single storey rear extension incorporating a Conservatory - Approved 18.09.2000

**3. CONSULTATIONS**

- 3.1 Brighton & Hove Archaeological Society - No Objection
- 3.2 County Archaeologist - No Objection. The site is within an Archaeological Notification Area but based on the information supplied no significant below ground archaeological remains are likely to be affected by these proposals.

**4. REPRESENTATIONS**

Original Proposed

- 4.1 Four (4) letters has been received from one neighbour, objecting to the proposed development on the following grounds: Overbearing impact, loss of light, loss of outlook, reduced privacy and the appearance of the building is out of keeping with the area.
- 4.2 Councillor Brown, objects to the proposed development and requests it should be heard at Planning Committee if recommended for approval. Comment attached.

Amended Proposed

- 4.3 Amended plans were submitted on 9 May 2018 showing a reduction in the projection of the first floor extension along the North boundary and a reduction in the ridge height of the extension. As a result of the revised plans the neighbours and contributors were re-consulted and given two weeks to submit comments on the revised application. The following comments were received.

- 4.4 Two (2) letters has been received from one neighbour, objecting to the proposed development on the following grounds: the proposed two storey extension remains out of character with the surrounding houses and will have a negative impact on no.53.
- 4.5 Councillor Brown, objects to the proposed development and requests it should be heard at Planning Committee if recommended for approval. Comment attached.

## 5. **RELEVANT POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

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

QD14 Extensions and alterations

QD27 Protection of Amenity

#### Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

## 6. **CONSIDERATIONS & ASSESSMENT**

- 6.1 The site is a detached house on the east side of Woodland Avenue. It is not in a conservation area or covered by an Article 4 Direction which removes permitted development rights. The proposal is for the demolition of the existing single storey rear extension and conservatory and the erection of a part one/part two storey rear extension in the same footprint. At first floor level the north east corner of the extension is set in by 2.9m and set back by 2.7m. The first floor extension has a pitched roof that is a continuation of the main ridge with a gable to the South East corner that has a ridge which is 0.4m lower. The existing single storey element to the south side of the property is to have the roof rebuilt which will increase the height by 0.5m. To the north side the single storey projection housing the utility room is to be extended to the rear by 2.7m. The front door is to be relocated from inside an open porch to the front of the property with a canopy over. The front window of the ground floor study is to be enlarged.
- 6.2 The scheme originally submitted proposed a two storey extension within the footprint of the existing single storey rear extension and conservatory. This extension had a pitched roof that continued the ridge line of the main roof. The impact on the neighbouring property to the North, no.53 Woodland Avenue, was considered significant in terms of overshadowing and being overbearing and accordingly the proposal had been amended to address these concerns.
- 6.3 Further drawings were received on 26.06.18 that addressed minor inconsistencies within the submission. A first floor North elevation window

shown in error was removed from the proposed first floor plan and a proposed front elevation (un-altered from the original submission) was added to drawing TA1091/13 D.

#### 6.4 Design and Appearance

The depth of the proposed part one/part two storey rear extension (4.6m) is in excess of half the internal depth of the original dwelling (8m), which can be a useful guideline in assessing the proportionality and design of an extension. However, in this instance, the detached nature of the existing house and the substantial size of the plot on which it sits ensures that the proposal would not appear as an overdevelopment of the host property or site as a whole.

6.5 The existing single storey rear extension and conservatory do not enhance the look of the property and the mix of roof designs and materials gives the rear elevation a somewhat contrived appearance. The proposed rear extension amalgamates the foot print of the existing structure into an extension that clearly relates to the host building. The proposed extension is finished in materials and details that match the existing house.

6.6 The new flat roof to the single storey element of the south elevation is considered an acceptable approach. The Council's design guide for extensions and alterations (SPD12) advises that a flat roof is acceptable to a side extension where it is set back significantly from the front elevation, as it is in this case.

6.7 The extension to the existing north side single storey element and the relocation of the front door with proposed canopy cause no harm in design terms.

6.8 Overall, the proposed extensions and alterations are considered acceptable additions to the building that would not harm its appearance or that of the wider area, in accordance with policy QD14 of the Brighton & Hove Local Plan and SPD12 guidance.

#### 6.9 Impact on Neighbouring Amenity

The impact on the adjacent properties at 53 Woodland Avenue has been fully considered in terms of daylight, sunlight, outlook and privacy following a site visit and no significant harm has been identified. It is noted that objections have been received in relation to the impact on this property.

6.10 The proposed rear extension does increase the mass of built form over the current arrangement. However, in order to mitigate any potential impact on the neighbour at no.53 the two storey element would be 4.8m away from the shared boundary. Additionally, any impact is further reduced as no.53 sits higher on the slope of the land than the subject property. As a result of these factors the proposed extension does not bisect views at 45 degrees from the neighbour's rear window (known as the '45 degree rule'). The orientation of the site means that the proposed rear extension will not significantly reduce the level of light received by the rear elevation and rear garden of no.53. Although the neighbour

will be able to see the proposed extension the impact is not considered sufficient to warrant refusal.

- 6.11 The first floor window to the north elevation will be conditioned to be fitted with only obscured glazing. To the rear elevation the proposed first floor windows are not considered to significantly increase the level of overlooking.
- 6.12 The impact on the adjacent property at 49 Woodland Avenue has been fully considered in terms of daylight, sunlight, outlook and privacy following a site visit and no significant harm has been identified.
- 6.13 The proposed two storey extension does not project beyond an existing single storey rear extension at no.49. This ensures there would not be an unacceptable overbearing impact at ground floor level. The proposed two storey element is 3.3m from the boundary with this neighbour and similarly does not break the 45 degree rule. The 0.5m increase in height of the single storey projection to the south side will not have a significant impact on no.49. The first floor window to the south elevation will be conditioned to be fitted with only obscured glazing. To the rear elevation the proposed first floor windows are not considered to significantly increase the level of overlooking.
- 6.14 Overall it is considered that the scheme, as now amended, has overcome the initial concerns regarding the neighbours' amenity and is accordingly recommended for approval.

## **7. EQUALITIES**

- 7.1 None identified.



Ref BH2018/00081 51 Woodland Avenue Hove  
Councillor: Vanessa Brown

As a Councillor for Hove Park Ward I am writing to object to the above planning application.

Even with the alterations to the plans the proposed extension will still appear overly dominant to 53 Woodland Avenue due to the height and depth of the plans.

It would take light and sun from the kitchen and garden of 53 Woodland Ave as number 51 sits to the South.

If this application should be recommended to be passed I would like it to go before the Planning Committee for decision.





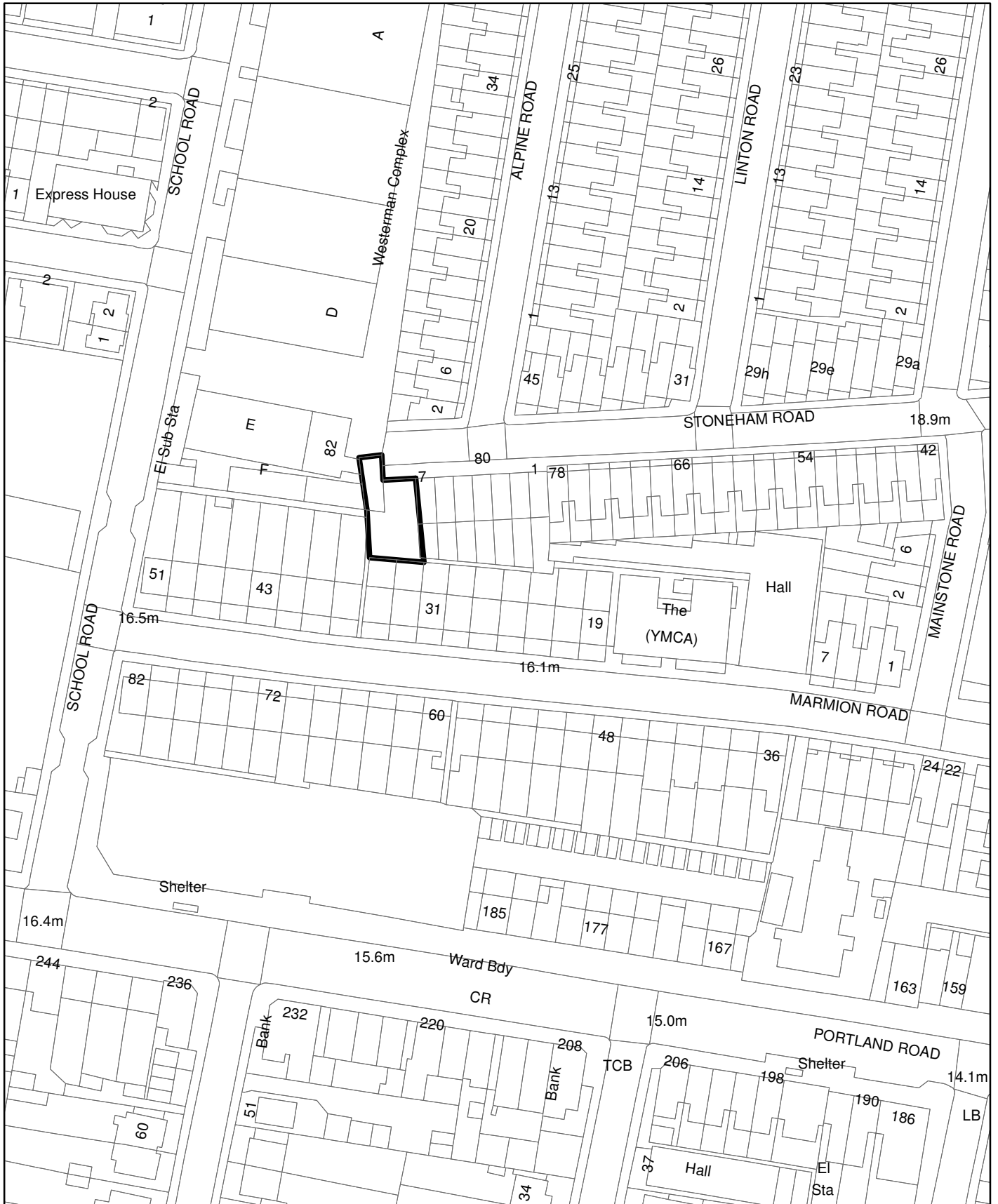
# **ITEM F**

**80A Stoneham Road, Hove  
BH2017/00574**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2017/00574 80A Stoneham Road



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2017/00574</b>	<b><u>Ward:</u></b>	<b>Wish Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>80A Stoneham Road Hove BN3 5HE</b>		
<b><u>Proposal:</u></b>	<b>Formation of third floor to form 2no bedroom flat incorporating terrace and associated works.</b>		
<b><u>Officer:</u></b>	Joanne Doyle, tel: 292198	<b><u>Valid Date:</u></b>	24.02.2017
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	21.04.2017
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mr Michael Pirrie Olivier House 18 Marine Parade Brighton BN2 1TL		
<b><u>Applicant:</u></b>	Mr Thompson C/O 1 Olivier House 18 Marine Parade Brighton BN2 1TL		

This item was originally presented to committee on the 12 July 2017. Members at this committee deferred consideration of the application in order to clarify the position in respect of the previous refusals and appeal decision. In addition, Members requested detailed drawings/slides highlighting the differences between the existing and proposed scheme in order that comparisons could be made between the previous scheme and the scheme at the time.

In the intervening period, officers re-considered the history of the site and negotiated amendments to the scheme.

## 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** subject to the expiry of the re-consultation period on 7/8/18 and the receipt of no new representations raising new material planning conditions and the following Conditions and Informatives:

### Conditions:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Elevations Proposed	YO235-2003 (EAST)	-	3 July 2018
Location and block plan	YO235-0001	-	20 February 2017
Elevations Proposed	YO235-2001 (WEST)	B	25 July 2018
Elevations Proposed	YO235-2000 (NORTH SOUTH)	A	3 July 2018
Sections Proposed	YO235-3000	-	3 July 2018

Floor Plans Proposed	YO235-1203 (3RD)	C	25 July 2018
Roof Plan Proposed	YO235-1204	-	3 July 2018
Floor Plans Proposed	YO235-0600 (GR,1ST,2ND)	A	20 June 2017

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. Prior to first occupation of the development hereby permitted 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.
4. Other than the third floor terrace area detailed on drawing no. YO235-1200, access to the third floor flat roof 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.
5. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One
6. None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
7. The windows in the southern elevation of the development hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan and policy CP12 of the Brighton & Hove City Plan Part One.
8. A 1.8m high obscure glazed privacy screen shall be erected to the western elevation of the terrace area and thereafter permanently retained as such.

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

9. No development 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 render and roof material
  - b) details of the windows and doors
  - c) details of privacy screening to the west and southern side elevations. The details shall comprise opaque or solid screening to a height of 1.8 metres.
- Development shall be carried out in accordance with the approved details.

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

Informatives:

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

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site relates to a three storey apartment building comprising 7 flats, located on the south side of Stoneham Road. The property is constructed in render and timber cladding with aluminium fenestration. To the east is the former Maynards Sweet Factory (which is included on the Local List of Heritage Assets), which has been converted into seven live-work units. To the west of the site is the School Road industrial estate. To the south the site drops down to the rear gardens of houses fronting Marmion Road. To the north are two storey terraced single family dwellinghouses in Alpine Road, which are characteristic of the surrounding area.
- 2.2 Planning permission is sought for the formation of third floor to form 2no bedroom flat incorporating front balcony, terrace and associated works.
- 2.3 This application is a resubmission of the previously refused application BH2013/01569 which was refused due to the extra storey resulting in a loss of amenity to 33 and 35 Marmion Road. A previous application (ref: BH2012/03504) was refused for the extra storey due to an excessive scale bulk and height and an inappropriate design.
- 2.4 This application proposes to address these issues by amending the design of the additional storey and a Light Impact document has been submitted.
- 2.5 During the course of the application the scheme has been amended to reduce the floor area of the third floor 2no bedroom flat from 78sqm to 61sqm. The footprint has been set back from the front elevation which reduces the

dominance of the proposal.

### **3. RELEVANT HISTORY**

BH2013/02345- Application for approval of details reserved by conditions 10 and 11 of application BH2012/03165. Approved on 17.06.2017.

BH2013/01569- Demolition of existing single storey building and erection of four storey block to form eight residential units. Refused on 19.07.2013. The reason for the refusal was as follows:

1. The proposed development, by virtue of its additional height and massing, would result in an overbearing, dominant and un-neighbourly form of development resulting in a significant loss of amenity to the properties to the south at 33 & 35 Marmion Road. In addition, the applicant has failed to demonstrate that the development would not result in a significant loss of daylight to these properties. The proposal is therefore contrary to policy QD27 of the Brighton & Hove Local Plan.

BH2012/03504- Demolition of existing single storey building and erection of a four storey block to form eight residential units. Refused on 25/02/2013. The reasons for the refusal were as follows:

1. The proposed four storey development, by reason of its excessive bulk, scale and height, would not appear subordinate to the adjoining former Maynards sweet factory building, which has been identified as an important heritage asset on the Council's Local List. The scheme would compete with this adjoining building's architectural primacy within the street scene and would not respect its setting. The development would thereby not emphasise or enhance the positive qualities of the local neighbourhood and the proposals are considered contrary to policies QD1, QD2 and HE10 of the Brighton & Hove Local Plan.
2. The proposed development, by reason of its overall scale, bulk and height, together with the contrived design and inappropriate detailing of the fourth floor, would result in an awkward relationship with the adjoining former sweet factory building and would detract from the character and appearance of the wider Stoneham Road street scene. The proposals are thereby contrary to policies QD1 and QD2 and HE10 of the Brighton & Hove Local Plan.

App/Q1445/A/13/2197768- Appeal dismissed on 05.11.2013.

BH2012/03420- Application for Approval of Details Reserved by Conditions 6 to 12 of application BH2011/01760. Approved on 18/02/2013.

BH2012/03165- Application for variation of condition 2 of application BH2011/01760, (Demolition of existing single storey building and erection of a three storey block to form seven residential units), to permit revisions to approved drawings including window, roof and balcony alterations. Variation of condition 10 to replace reference to living wall with 1.8 metre high brick wall and 3 metre high conifer hedge along South and West sides. Approved on 25/02/2013.



BH2011/01760- Demolition of existing single storey building and erection of a three storey block to form seven residential units. Approved on 08/03/2012.

BH2010/00177- Application to extend time limit for implementation of previous approval BH2006/02653 for the demolition of existing single storey building and construction of a three storey building to form 5 residential units and part ground floor (B1) office unit. Approved on 15/04/2010.

BH2006/02653- Demolition of existing single storey building & construction of a three storey building to form 5 residential units & part ground floor B1 office unit. Approved on 07/02/2007.

BH2006/01072- Demolition of existing single storey building and construction of 4 storey plus lower ground floor building, to form 8 No. 2 bedroomed affordable housing units. Refused on 14/06/2006.

#### **4. REPRESENTATIONS**

**4.1 Seventeen (17)** letters of representation have been received objecting to the proposal for the following reasons:

- Overdevelopment of the plot
- Result in loss of light/daylight
- Result in noise pollution
- Result in overlooking and loss of privacy
- The extra storey would be overbearing, dominant and unneighbourly
- The extra storey would diminish the harmony of the roofline
- The proposal would detract from the character of the area
- Concern that the Right of Light document does not include Alpine Road
- The development should be car free or would result in traffic issues
- Impact on the locally listed Maynards Sweet Factory Building

**4.2 Councillor Nemeth** has objected to the application, a copy of the letter is attached to this report.

#### **5. CONSULTATIONS**

**5.1 Environmental Health:** No Comment

**5.2 Sustainable Transport:** No objection  
Car Parking

No car parking is proposed; however, any additional demand that does arise for on-street parking as a result of the proposals will be managed by the surrounding Controlled Parking Zone. Given the particular circumstances and location of the proposed development the proposed level of car parking is deemed acceptable to the Highway Authority. Given the likely overspill car parking from the proposed development, the level of on-street parking and availability of permits, it is not considered necessary to prevent access to CPZ permits for future occupiers.

### Cycle Parking

No additional cycle parking appears to be proposed with SPD14 requiring one additional space. However, it is noted that there is an existing cycle store consented under the original application which could also provide for the additional unit. Therefore, no further details are requested in this instance.

### Trip Generation

It is not considered that the addition of one two bedroom flat will result in a substantial uplift in trip generation and therefore no objections are raised in this instance.

## 6. MATERIAL CONSIDERATIONS

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

6.2 The development plan is:

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

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

## 7. POLICIES

The National Planning Policy Framework (NPPF)

### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP12 Urban design  
CP14 Housing density

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

TR7 Safe Development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD5 Design - street frontages  
QD14 Extensions and alterations  
QD27 Protection of amenity

HO5 Provision of private amenity space in residential development  
HO13 Accessible housing and lifetime homes

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 impact of the additional storey on the character and appearance of the building, adjacent locally listed Sweet Factory building, the wider streetscene, the effect on the amenity of neighbouring residential occupiers, the standard of proposed accommodation, and transport and sustainability issues.
- 8.2 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. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3 The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published later this year. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 8.4 History of the site:**  
There have been a number of schemes put forward for the redevelopment of the site. Application BH2006/01072 was refused planning permission for a four storey block plus basement. Application BH2006/02653 was approved for a three storey block. This scheme was not implemented. A subsequent application was granted in 2011 (ref: BH2011/01760) for the demolition of an existing single storey building at the site and the erection of a three storey block to form seven residential units with subsequent amendments to window, roof, balcony and boundary treatments approved under application BH2012/03165. The residential block is now in situ.
- 8.5 Following this, the schemes put forward for a four storey block with the addition of an extra storey at third floor level (ref: BH2012/033504 and BH2013/01569) were refused due to design and amenity issues. Application BH2012/033504 was refused on design and amenity grounds and was the subject of an appeal

(App/Q1445/A/13/2197768) dismissed on 05.11.2013. Application BH2013/01569 addressed some concerns but was refused on amenity grounds.

**8.6 Design and Appearance:**

Policy CP12 of the Brighton & Hove City Plan seeks to ensure that all new development raises the standard of architecture and design in the City. In tandem with this, Policy CP14 of the City seeks to encourage a higher density of development than those typically found in the locality provided developments will, amongst other things, respect, reinforce or repair the character of a neighbourhood and contribute positively to its sense of place.

- 8.7 The surrounding area is largely characterised by two storey terraced houses. The only building of a similar scale to the proposed development is the adjacent Former Maynards sweet factory. This is an attractive red brick Victorian building that is four storeys in height, with the top floor set within a predominantly glazed pitched roof. As such it has a reasonably lightweight appearance when viewed along Stoneham Road. In recognition of its architectural interest, it is included on the Local List of Heritage Assets.
- 8.8 The proposal seeks planning permission to add an additional floor to the residential scheme initially approved under BH2011/01760 and subsequently amended under BH2012/03165. The proposed additional storey would be set back from the front and rear elevation of the property with materials comprising of white render with grey aluminium doors to match the existing building. A terrace is proposed to the flat roof area.
- 8.9 This application follows two previously refused applications. Application BH2012/03504 for an additional storey was refused largely owing to concerns that its scale, form and contrived design represented an incongruous addition that would unsatisfactorily compete with the architectural primacy of the adjacent Sweet Factory, particularly when viewed from Stoneham Road and Alpine Road.
- 8.10 This application was the subject of an appeal to the Planning Inspectorate. In the assessment of the proposal the Inspector considered that the design of the scheme, and prominent footprint, would have a harmful impact on the setting of the former Maynards sweet factory building and on the character and appearance of the area.
- 8.11 Following this, application BH2013/01569 addressed the reasons for refusal on design terms by amending the scheme and setting the additional storey further from the front elevation of the building and the design approach was considered acceptable in regard to design, scale and material. The application was refused on amenity grounds.
- 8.12 The design of the scheme in 2012 under application BH2012/03504 was considered inappropriate due to the excessive bulk, scale and height forming a dominant addition to the building and surrounding development. A subsequent scheme in 2013 under application BH2013/01569, whilst refused on amenity

issues, was considered acceptable in terms of design, due to the lightweight appearance of the additional storey.

- 8.13 The current application was originally presented to committee on 12 July 2017. Members at this committee deferred consideration of the application in order to clarify the position in respect of the previous refusals and appeal decision (as discussed above). In the intervening period, officers re-considered the history of the site and negotiated amendments to the scheme.
- 8.14 The original submission, which was presented to committee on 12 July 2017, proposed a 2no bedroom flat with a footprint of 78sqm, comprising of open planned living arrangement, a bathroom and a private terrace area. The addition was recessed from the (eastern side) front elevation by approximately 1.1m and by approximately 1m from the (western side) front elevation. Following amendments to the scheme, the footprint of the 2no bedroom flat has been reduced to 61sqm and the internal layout of the flat has been re-configured. The extension is now recessed by approximately 2.7m from the (eastern side) front elevation and by 6.6m from the (western side) front elevation with the terrace area relocated to the front elevation of the roofslope. The footprint of the extension is comparable to the footprint of the scheme considered under application BH2013/01569, which was considered acceptable in design terms.
- 8.15 These amendments to the scheme, by setting the additional storey further back from the front elevation of the building, results in a simplified footprint and appearance. The height of the addition would be lower than that the roofline of the adjoining Sweet Factory and the additional storey would be set off the flank wall of the Sweet Factory building. These elements would serve to create a subordinate addition relative to the Sweet Factory, which would not compete or contend with the setting of the Sweet Factory and would not cause visual harm to the appearance of the street scene.
- 8.16 The proposed development is considered to represent an acceptable design in accordance with policy CP12 of the Brighton & Hove City Plan.
- 8.17 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.
- 8.18 Neighbouring residential occupiers have expressed concern that the proposed development would result in a loss of light, overshadowing, noise and disturbance, and overlooking.
- 8.19 The main concern is with regard the impact of the additional height of the development on the properties to the south of the site. The properties to the rear, most notably nos, 33 & 35 Marmion Road, are set in a terrace of two storey houses. The terraces on Marmion Road taper in relation to Stoneham Road such that the development site is in closer proximity than the adjacent

Sweet Factory building. The submitted section drawing reveals that the development site is on higher ground level to the properties on Marmion Road, with the additional fourth floor set at a separation of 15m.

- 8.20 A BRE guidance document was submitted with the previously refused application BH2013/01569 in which it was considered that a more detailed daylight/sunlight assessment would be required to establish the likely extent of daylight loss. A daylight impact assessment has been submitted with this application. The windows assessed were the properties at 33 and 35 Marmion Road. The analysis of the Vertical Sky Component concludes that the windows analysed achieve adequate daylight levels. The report states that, 'the affects on all windows analysed are not seen to be of a significant level and fall well within the BRE impact limits. The most detrimental affect being -8.69% reduction in VSC value, which falls well within the 20% reduction allowance before adverse effects are to be noted.' The report confirms that the assessed windows are not subject to a negative impact and are in line with BS82016-2:2008 and BRE recommendations for adequate lighting levels.
- 8.21 It is noted that residents to the rear of the site have raised concerns regarding the impact of the proposal on their properties in terms of overshadowing and loss of light. However the report is comprehensive and finds that the effect of the additional storey would have a minimal impact on the properties to the rear. Nevertheless Daylight/Sunlight Analysis forms a single element of a wider assessment of the impact of a development on neighbours.
- 8.22 Notwithstanding the conclusions made by the survey report, the design and detailing of the rear of the additional storey would ensure that the development would not result in overshadowing toward these properties. The previous scheme under application BH2013/01569 proposed to extend the rear elevation of the additional storey directly off the rear elevation of the building, whereas under this application the rear elevation of the additional storey would be recessed and angled away from the rear elevation of the building.
- 8.23 The proposed glazing and angle of the rear elevation would restrict views toward the rear gardens and rear elevations of the properties on Marmion Road. The glazing of the rear elevation of the additional storey will be secured via condition. The addition would be set in from the rear elevation of the building and has been designed to angle away from the rear elevation, in contrast to the previous application which proposed to extend the rear elevation directly off the rear elevation of the buildings. This is considered sufficient to ensure that the extra storey would be not have an overbearing, dominating and unneighbourly presence on the properties to the rear.
- 8.24 The terrace proposed to the western side of the roofspace would result in overlooking of the adjoining garden areas and rear of the properties of Marmion Road. A condition is recommended requiring that a 1.8m high obscure glazed privacy screen is erected. The addition of which is considered sufficient to mitigate against any overlooking or loss of privacy and would restrict views of the garden spaces and rear of the properties. In terms of noise and disturbance as a result of the proposed terrace, it is considered that the size of the terrace

would not result in any significant disturbance or noise to warrant refusal of planning permission.

8.25 For the reasons outlined above it is not considered that any loss of light or overshadowing to neighbouring occupiers would be so significant as to warrant refusal of the application on these grounds and the development would not be significantly overbearing or result in significant loss of privacy. It is considered the development accords with policy QD27 of the Brighton and Hove local Plan.

**8.26 Standard of Accommodation:**

The application proposes a 2 bedroom flat at third floor level. The gross internal floor area of the 2 bedroom flat measuring approximately 61sqm would meet the government's Technical Housing Standards which states that a 3 person, 2 bedroom, 1 storey property should measure 61sqm. The unit features two bedrooms each of which meets the minimum national space standards.

8.27 It is noted that the council has not adopted these sizes locally but as a comparable indicator of acceptable space standards, the unit would meet these standards and is an indication that the accommodation proposed is an acceptable size.

8.28 The flat comprises of open planned living/kitchen/dining room, bathroom, 2no bedrooms and en-suite bathroom with private roof terrace. Whilst the large rear window is proposed to be obscure glazed it is considered that adequate light would serve the open planned room from the front window opening. Both bedrooms would contain window openings which would provide sufficient levels of natural light and outlook.

8.29 Policy HO5 requires the provision of private useable amenity space in new residential development. The unit would provide an adequate sized terrace at roof level, in accordance with Policy HO5.

8.30 Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. Given that the development is at third floor level with no lift the development could not comply with Requirement M4(2) of the optional requirements in Part M of the Building Regulations and therefore this condition will not be applied.

**8.31 Highways:**

The proposal is unlikely to generate a substantial increase in trips to the application site.

8.32 No car parking is proposed; however, any additional demand that does arise for on-street parking as a result of the proposals will be managed by the surrounding Controlled Parking Zone. Given the particular circumstances and location of the proposed development the proposed level of car parking is deemed acceptable to the Highway Authority. Given the likely overspill car parking from the proposed development, the level of on-street parking and

availability of permits, it is not considered necessary to prevent access to CPZ permits for future occupiers.

8.33 Cycle storage is not proposed, however the existing store on the site could also provide for the additional unit.

**8.34 Sustainability:**

Policy CP8 of the Brighton and Hove City Plan Part One requires new development to demonstrate a high level of efficiency in the use of water and energy. Policy CP8 requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. This is secured by condition.

**9. EQUALITIES**

9.1 None identified



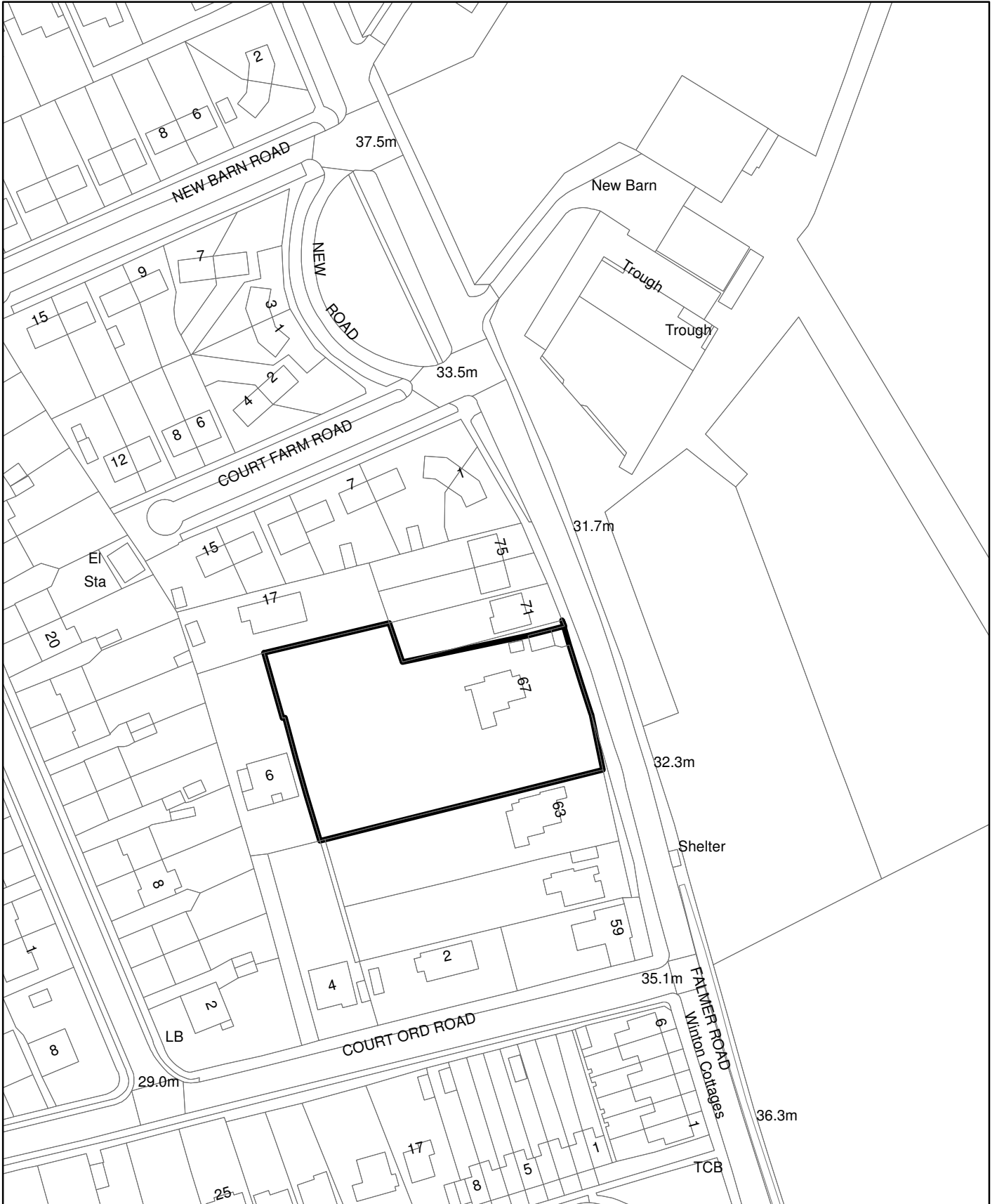
# **ITEM G**

**67 Falmer Road,  
Rottingdean  
BH2018/00329**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2018/00329 67 Falmer Road



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/00329</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>67 Falmer Road Rottingdean Brighton BN2 7FJ</b>		
<b><u>Proposal:</u></b>	<b>Application for variation of condition 2 of application BH2017/00994 (Application for variation of condition 2 of application BH2015/02049 allowed on appeal (Demolition of existing house and garage and erection of 9no four bedroom houses.) to allow amendments to the approved drawings). to permit amendments to the approved drawings including landscaping, elevations and boundary treatments.</b>		
<b><u>Officer:</u></b>	<b>Luke Austin, tel: 294495</b>	<b><u>Valid Date:</u></b>	<b>05.02.2018</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>02.04.2018</b>
<b><u>Listed Building Grade:</u></b>	<b><u>EOT:</u></b>		
<b><u>Agent:</u></b>			
<b><u>Applicant:</u></b>	<b>Denton Homes The Rear Barn The Manor Farm 124 Manor Road North Thames Ditton Surrey KT7 0BH</b>		

**1. RECOMMENDATION**

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

Conditions:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor Plans Proposed	019-201		1 February 2018
Floor Plans Proposed	019-202		1 February 2018
Floor Plans Proposed	019-211		1 February 2018
Floor Plans Proposed	019-212		1 February 2018
Floor Plans Proposed	019-221		1 February 2018
Floor Plans Proposed	019-222		1 February 2018
Floor Plans Proposed	019-231		1 February 2018
Elevations Proposed	019-301		1 February 2018
Elevations Proposed	019-311		1 February 2018
Elevations Proposed	019-321		1 February 2018
Elevations Proposed	019-331		1 February 2018
Landscaping Proposed	LC-2628-01		23 July 2018

2. Time condition not used.  
3. Not used.

4. The development shall be implemented in accordance with the material samples approved by the Local Planning Authority under application BH2017/03172.  
Reason: To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton and Hove City Plan Part One.
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 dwellings, as provided for within Schedule 2, Part 1, Classes A-E, other than those expressly authorised by this permission, shall be carried out within the curtilage of any dwelling house.  
**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policy QD14 and QD27 of the Brighton & Hove Local Plan.
6. The development hereby approved shall be carried out in accordance with the conclusions and recommendations set out in the Ecology Report, produced by Applied Ecology and dated 1 September 2015.  
**Reason:** To mitigate any impact from the development hereby approved and to comply with Policy CP10 of the Brighton and Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
7. The parking areas shown on the approved plans shall be completed prior to the first occupation of the development and retained for that use for the occupants and visitors of the development thereafter.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton and Hove City Plan Part One.
8. The approved disabled parking as approved under application BH2017/03172 shall be fully implemented and available for use prior to the first occupation of the development and shall thereafter be retained for that use.  
**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 and SPD14 guidance.
9. The water drainage scheme as approved under application BH2017/03172 shall be implemented in accordance with the approved details before the development is completed and thereafter maintained and managed in accordance with it.  
**Reason:** As this matter is fundamental 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.
10. The cycle parking facilities, as approved under application BH2017/03172, shall be fully implemented and available for use prior to the first occupation of the development and shall thereafter be retained for that use.

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

11. All tree work shall be carried out in accordance with the British Standard 3998 (2010) Recommendations for Tree Work.  
**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
12. The tree protection methods shall be carried out as approved under application BH2017/03172.  
**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
13. The dwellings hereby approved shall be completed in accordance with the Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to the first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice or Initial Notice to enable building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
14. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
15. None of the residential units hereby approved shall be occupied until each residential unit has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
16. The site's access road and footway shall be implemented in accordance with the details approved under application BH2017/03172 and shall be installed prior to the first occupation of the development and retained as approved thereafter.  
**Reason:** As this matter is fundamental to ensure highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
17. The amended crossover and access shall be constructed prior to the first occupation of the development hereby permitted.

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

18. The development hereby approved shall be implemented in accordance with the ordnance datum levels details as approved under application BH2017/03172.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
19. The boundary treatments shall be provided in accordance with landscape plan LC-2628-01 received 23.07.18 and shall be installed prior to occupation of the development and shall thereafter be retained at all times.  
**Reason:** To enhance the appearance of the development in the interest of the visual and residential amenities of the area and to comply with policies QD15 and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
20. Prior to the first occupation of the dwellings hereby permitted, a soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include: planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants (noting numbers, densities and implementation programme and extensive replacement tree planting. It shall also include a scheme to enhance the nature conservation interest of the site, to accord with the standards described in Annex 7 of Supplementary Planning Document 11: Nature Conservation and Development. The landscaping scheme shall be carried out strictly in accordance with the agreed details and shall be carried out within the first planting season after the first occupation of the development.

The landscaping shall be maintained to the satisfaction of the Local Planning Authority for a period of 5 years after planting, such maintenance to include the replacement of any trees and shrubs that die or have otherwise become, in the opinion of the Local Planning Authority, seriously damaged or defective. Such replacements to be of a similar species and size as those originally planted.

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

21. The acoustic fencing, as approved under application BH2017/03172, shall be constructed prior to the first occupation of the development and retained as approved thereafter.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.



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

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

Informatives:

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

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

- 2.1 The application site relates to a pre-existing two storey property located to the west of Falmer Road. Permission was granted at appeal for the demolition of existing house and the erection of 9 four bedroom houses (BH2015/02049). Subsequent amendments have been made to the proposal under application BH2017/00994. The site has been cleared and the works are currently under way.
- 2.2 This application seeks consent for alterations to the drawings within the latest permission on site (BH2017/00994) including amendments to the landscaping, elevations and boundary treatments.
- 2.3 Several amended versions of the landscaping plan have been submitted during the assessment of the application.

## 3. **RELEVANT HISTORY**

**BH2017/00994** - Application for variation of condition 2 of application BH2015/02049 allowed on appeal (Demolition of existing house and garage and erection of 9no four bedroom houses) to allow amendments to the approved drawings. Approved 15.08.2017.

**BH2015/02049** - Demolition of existing house and garage and erection of 9 no. four bedroom houses. Refused on 1 December 2015 for the following reasons;

1. The proposed development by reason of its design is out of keeping with the prevailing character of the area and does not emphasise its positive characteristics in terms of prevailing density, height, scale, bulk and relationship to adjoining dwellings contrary to policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan 2005.
2. The proposed development by reason of its height and proximity to no. 6 Court Ord Road would result in an unneighbourly development contrary to policy QD27 of the Brighton & Hove Local Plan 2005.

Planning permission was granted at appeal (**APP/Q1445/W/16/3142069**) on 17 November 2016. This planning permission also included a Section 106 Legal Agreement. The Heads of Terms included;

- An affordable housing contribution of £181,000 (this would be reduced to £108,000 in the event the Ground Investigation Report concludes that piling is required as part of the development),
- A Transport Contribution of £12,000 to be allocated towards footway improvements on Falmer Road in the vicinity of the property, including, but not limited to, the junctions with New Barn Road and Court Farm Road and/or bus stop accessibility improvements at stops to the south of the property and/or parking restrictions between and including the junctions of Court Ord Road / Falmer Road and Court Farm Road / Falmer Road.
- A Residential Travel Plan to promote sustainable transport to and from the site.

#### **4. REPRESENTATIONS**

**4.1 Four (4)** letters has been received, objecting to the proposed development for the following reasons:

- Disregard of previous conditions
- Overlooking / loss of privacy
- Inaccurate landscaping plans
- Inadequate detail provided
- Trees / hedges have already been removed

**4.2 Councillor Mears** objects to the proposed development. A copy of the objection is attached.

#### **5. CONSULTATIONS**

**5.1 Environmental Health:** No Comment

**5.2 Arboriculture:** No objection.

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

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

**6.2** The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);

- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

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

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
 CP1 Housing delivery  
 CP7 Infrastructure and developer contributions  
 CP8 Sustainable buildings  
 CP9 Sustainable transport  
 CP10 Biodiversity  
 CP11 Flood risk  
 CP12 Urban design  
 CP14 Housing density  
 CP18 Healthy city  
 CP19 Housing mix  
 CP20 Affordable housing

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

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

#### Supplementary Planning Documents:

SPD06 Trees & Development Sites  
 SPD11 Nature Conservation & Development  
 SPD14 Parking Standards

## 8. CONSIDERATIONS & ASSESSMENT

- 8.1 The original scheme (BH2015/02049) was refused in November 2015 on the grounds that the design would be out of keeping with the prevailing character of the area and that there would be an unneighbourly impact on the adjoining property to the rear, No.6 Court Ord Road. The scheme was subsequently allowed on appeal in November 2016.
- 8.2 In regards to design the Inspector stated, 'I conclude that the appeal proposal would not adversely affect the character or appearance of the locality and would generally accord with CP Policies CP12 and CP14.'
- 8.3 In relation to neighbour amenity the Inspector stated, 'I conclude that the appeal development would not adversely affect the living conditions of neighbouring occupiers, with regard to daylight, sunlight, outlook, overlooking or noise and disturbance.'
- 8.4 Whilst this permission remains extant, it must be considered whether circumstances policy or practice has changed significantly since the time this decision was taken.
- 8.5 In this case it is considered that the policy context has not changed substantially in regard to the principle of development, design, sustainability or sustainable transport; however the council's position on affordable housing has altered for proposals of this many units since the time that permission was given. City Plan Part One Policy CP20 – Affordable Housing, seeks 20% affordable housing as an equivalent financial contribution on sites of between 5 and 9 (net) dwellings. As the works are already underway it is not considered reasonable to secure an affordable housing contribution in this instance.
- 8.5 It is noted that the Section 106 Legal Agreement for BH2015/02049 contains provision for any variations of this permission and as such a Deed of Variation would not be required for this application.
- 8.6 Proposed Variation of Condition 2:**  
The application states that changes are required to the landscaping and elevations due to compliance with Building Regulations Part M4(2) as secured by condition 13 of the original permission.
- 8.7 The alterations to the elevations to plots 1-4 would involve minor changes to the design of the building including amendments to the roof of the rear single storey section, slight changes to the roof of the dormer window and alterations to the fenestration. New side facing windows are also proposed at second floor level to either side.
- 8.8 The alterations to plots 5-7 would also be relatively minor and similar to the alterations to plots 1-4. The dormer window would be reduced in size slightly and the positioning of the rooflights would be also be amended.
- 8.9 Plot 8 would have similar alterations in addition to an amended design to the garage door.

- 8.10 Plot 9 would also undergo several minor amendments including an increase in height of the front projection, alterations to the roof of the rear projection and minor changes to the glazing to the rear elevation.
- 8.11 Overall the alterations to the dwellings are relatively minor and are considered acceptable in terms of design. It is noted that they would provide additional views towards neighbouring gardens from a raised level however; the outlook provided would be largely similar to that of the previously approved first floor windows and the windows would serve stairwells rather than habitable rooms.
- 8.12 The application also seeks consent for alterations to the boundary treatments in addition to amendments to the proposed landscaping scheme including the removal of several trees to the western rear boundary, the installation of new hedgerows and planting to the south and north boundary in addition to the planting of a number of new trees within the rear gardens of the new properties.
- 8.13 Following clarification from the applicant and the installation of improved species of planting within the site and improved ground conditions in order to ensure that the proposed planting will thrive, the landscaping scheme is now considered acceptable.
- 8.14 Other Matters:**  
Several of the drawings submitted with the application include details required by conditions placed on the overall planning permission. The proposed elevations and floorplans include a window arrangement which is consistent and acceptable. Condition 3 requiring details of the window arrangement on plots 5-8 is therefore no longer required.
- 8.15 The proposed landscape plan includes details of the boundary treatment on site. No further details are required to satisfy 19 and the implementation and retention of the boundary treatment details provided shall be secured by condition.
- 8.16 Furthermore as the works on site have already commenced, no time condition is required.

## **9. EQUALITIES**

- 9.1 None identified



COUNCILLOR REPRESENTATION

Cllr Mary Mears

Planning application - BH2018/00329 67 Falmer Road Rottingdean

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

The original planning application on this site was refused and was subsequently won on appeal. The inspector was very clear with her reasons why she added the conditions. Partially Condition 12 in relation to the screening of trees and hedges to afford neighbours some privacy.

I do not support the developer's request to amend the existing granted application to enable the developer to cram to many properties on this site.

This was always going to be a difficult site to develop, trying to build the number of units in such a small area, the original drawings showed this, now as the site is being developed, it's even clearer.

I wish this planning application to go to the planning committee for decision., and reserve my right to speak.





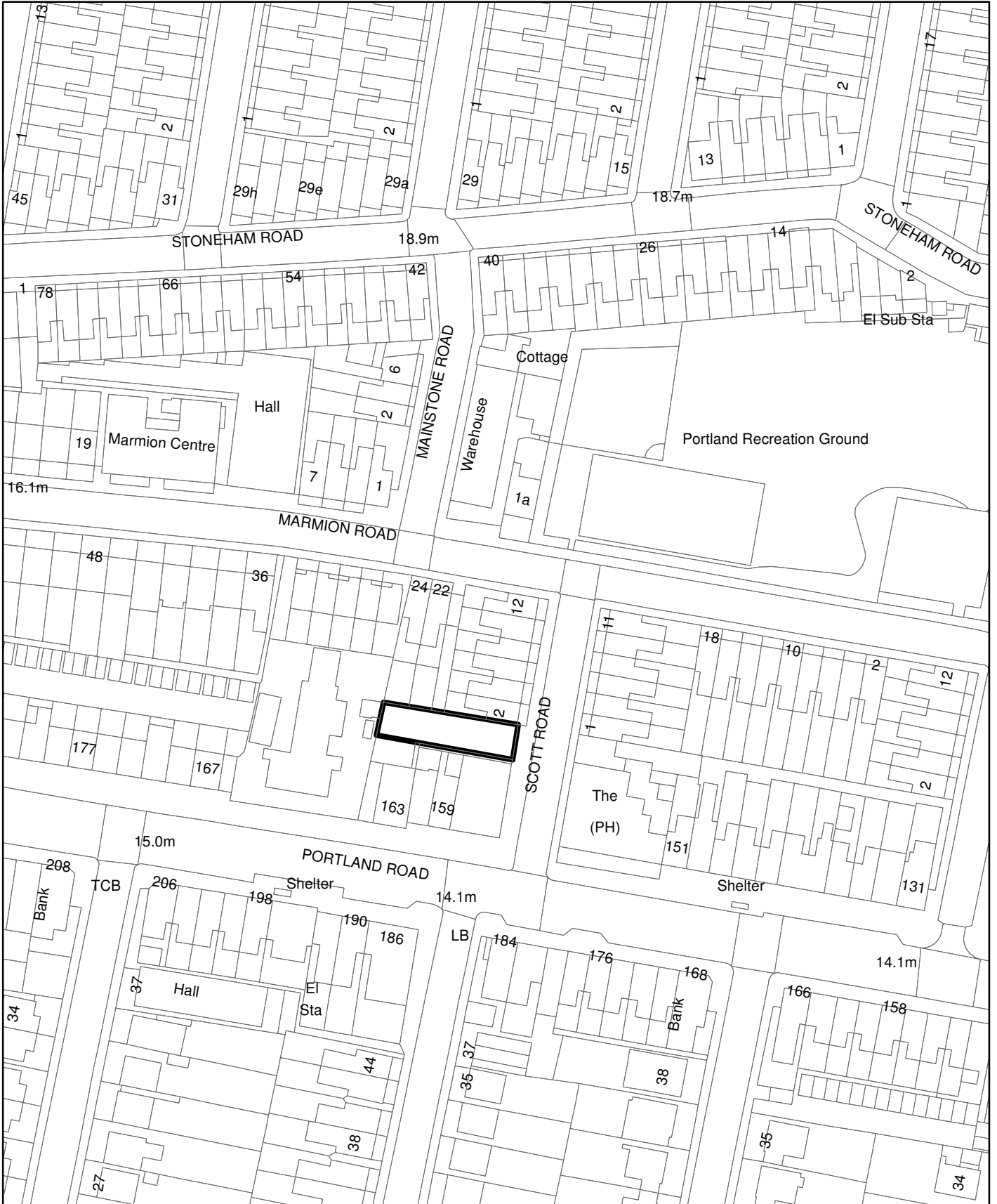
# **ITEM H**

**Wickenden Garage,  
Scott Road, Hove  
BH2018/00972**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2018/00972 Wickenden Garage Scott Road



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/00972</b>	<b><u>Ward:</u></b>	<b>Wish Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Wickenden Garage Scott Road Hove BN3 5HN</b>		
<b><u>Proposal:</u></b>	<b>Formation of 1no two bedroom flat (C3) on top of existing garage (B1).</b>		
<b><u>Officer:</u></b>	Luke Austin, tel: 294495	<b><u>Valid Date:</u></b>	26.03.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	21.05.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b>Agent:</b>	Tim Cording 3 Whitethorn Drive Brighton BN1 5LH		
<b>Applicant:</b>	Mr Jared Wickenden Wickenden Garage Scott Road Hove BN3 5HN		

## 1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **REFUSE** planning permission for the following reasons:
- 1.2 Insufficient information has been submitted in respect of levels of noise and disturbance generated by the existing automobile engineer/garage use and how the amenity and living conditions of future occupants of the proposed flat may be affected by noise and disturbance. As such no assurance is provided that future occupiers' amenity would not be compromised and the proposal is therefore contrary to policies SU10 and QD27 of the Brighton and Hove Local Plan.
- 1.3 The proposed development represents a significant risk to the day to day running of the existing garage (B2) due to potential noise, disturbance, odour and fumes complaints from future occupiers of the proposed residential unit. The proposal is therefore contrary to policy CP3 of the Brighton and Hove City Plan Part One and Policy SU10 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. This decision is based on the drawings received listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor plans and elevations proposed	-	-	26 March 2018

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

- 2.1 The application site is occupied by a single storey flat roof building with a pitched roof workshop to the rear. The site is in use as a motor vehicle engineers/garage.
- 2.2 The garage adjoins a row of 6 terraced houses on the western side of Scott Road. These are two storeys in height and have a traditional appearance with pitched roofs and bay windows with gables over.
- 2.3 The site is reasonably deep and goes behind the rear gardens and yards of nos. 155 to 163 Portland Road. This is part of a designated local shopping centre and the ground floors are in commercial use with residential uses above.
- 2.4 Permission is sought for the erection of an additional storey to the front section of the site in order to facilitate a two bedroom flat. That application follows several refused applications of a similar scale, the latter of which is identical to the current proposal.

## **3. RELEVANT HISTORY**

**BH2013/01017** - Addition of first floor with pitched roof to form 1no two bed flat with associated works. Refused 29.08.2013 for the following reasons:

1. *Insufficient information has been submitted in respect of levels of noise and disturbance generated by the existing automobile engineer/garage use and how the amenity and living conditions of future occupants of the proposed flat may be affected by noise and disturbance. As such no assurance is provided that future occupiers' amenity would not be compromised and the proposal is therefore contrary to policies SU10 and QD27 of the Brighton and Hove Local Plan.*
2. *The proposed development would compromise the day to day running of the existing garage (B2) as a result of noise and disturbance complaints from potential occupiers of the proposed residential unit. The proposal is therefore contrary to policy EM6 of the Brighton and Hove Local Plan.*

**BH2012/01776** - Addition of first floor with pitched roof to form 1no three bed flat and associated works including a new terrace to rear. Refused 30.11.2012.

**3/89/0315** - First floor extension above existing single storey garage to form a self contained flat. Refused 31 May 1989.

**3/89/0024** First and second floor extensions to form 2 no. self contained flats. Refused 24.02.1989.

**3/81/0701** - Erection of illuminated fascia sign and projecting box sign. Granted.

#### **4. REPRESENTATIONS**

**4.1** **Four (4)** letters have been received, objecting to the proposed development for the following reasons:

- Overlooking / loss of privacy
- Overshadowing / loss of light
- Will impact on my home business
- Additional noise
- Would exacerbate parking problems

**4.2** **Nine (9)** letters have been received supporting the proposed development for the following reasons:

- It will enhance the look of the street
- It would be smaller than local properties
- Modest and proportionate
- No detrimental impact as there used to be an additional storey there in the past
- Sensible use of an unused part of a commercial building
- Will have little impact on the local area
- It is just reinstating what was originally there

#### **5. CONSULTATIONS**

**5.1** **Environmental Health:** Objection

Concerns are raised as activities carried out in the garage are likely to result in noise, odour and fumes. This could result in complaints which this department would have a duty to investigate under the Environmental Protection Act 1990.

**5.2** The day to day activities at a garage may include use of tools which can be very noisy. There may also be noise from cars, staff and customers.

**5.3** **Sustainable Transport:** No objection

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

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

**6.2** The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

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

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP2 Sustainable economic development
- CP3 Employment land
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP12 Urban design
- CP14 Housing density
- CP18 Healthy city
- CP19 Housing mix

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

- TR7 Safe Development
- TR14 Cycle access and parking
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- QD5 Design - street frontages
- QD14 Extensions and alterations
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes

#### 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 development; the design and appearance; effect on neighbour and future occupiers amenity; sustainability; and transport.

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

The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.

- 8.3 The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years



supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published later this year. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

- 8.4 The current site comprises a single storey commercial unit housing a car repair shop operating under a B2 use class. The proposal includes a first floor addition to the site in order to accommodate a two bedroom flat. The proposal would make a small but welcome contribution to housing need within the city and would not result in the loss of any floorspace within the commercial unit below. On this basis, the proposal is acceptable in principle subject to the detailed assessment below.
- 8.5 Noise sensitive development such as residential, in close proximity to general industrial uses should be carefully considered for reasons including potential impact on the continued viability of the general industrial use and the potential impact of the industrial use on the living conditions of future residents.
- 8.6 Design and Appearance:**  
The proposed extension would project directly above the roof of the existing building, matching the set-back from the road and the width of the building creating a new external entrance and internal access stairs to the flat. The proposal would adjoin the adjacent terraced building, matching the height, eaves and roof pitch. It should be noted however, that adjoining terrace plots are 5 metres wide and the proposed development would be 8.4 metres in width, significantly wider than the plots of the adjoining terraces.
- 8.7 Whilst the proposed extension would be significantly wider than the adjacent properties and would not match the general proportion of the street, it is considered that the site provides logical infill in terms of design and could be accommodated without resulting in significant harm to the character and appearance of the streetscene.
- 8.8 Standard of Accommodation for Future Occupiers:**  
The proposed flat would include two bedrooms, a bathroom and an open plan kitchen / living room. The gross internal floor area of the flat would measure approximately 76m<sup>2</sup> which is in accordance with the national space standards and the bedrooms would both be of adequate size. Furthermore the flat would have adequate outlook and natural light level.
- 8.9 The flat would however be located directly above a vehicle repair workshop and therefore would be in close proximity to noise generating use. The applicant has not submitted any information as to the day-to-day activities carried out at the garage to give an indication of what noise levels or other disturbances may

occur. Furthermore there is no relevant planning history for the garage and therefore there are no restrictions or planning conditions regarding hours of opening or the activities that can be carried out by the garage.

- 8.10 It is not unreasonable to surmise the activity associated with the site will generate noise. Policy SU10 of the Local Plan states applicants should assess the effect of an existing noise source upon proposed development because noise sensitive development such as residential uses, may not be appropriate if its occupiers would be affected adversely by noise from existing uses that generate significant levels of noise. This issue formed a reason for refusal on the previous application. The applicant has stated on the current plans that the ceiling over the garage would be insulated, however no further details have been provided.
- 8.11 The Environmental Health Officer raises concerns about the principle of introducing a new unit above the existing garage workshop indicating that the day to day activities at a garage may include use of tools which can be very noisy. There may also be noise from cars, staff and customers. It has also been indicated that Environmental Protection investigations may result in restrictions being placed on the garage that could prevent them being able to trade and therefore impact on the viability of the commercial premises in the long term.
- 8.12 Whilst it is acknowledged that the ceiling could be insulated, this would not insulate against the day to day airborne and structural noise which would be the precursor of complaints made. These would travel out of the front of the commercial premises and be heard by residents above. It is also recognised that whilst there may have previously been a residential use above the existing garage, the operation of a modern day garage would significantly affect a residential flat above.
- 8.13 Notwithstanding the insufficient information submitted by the applicant, it is considered that strong concerns lie with the varied and intermittent noise sources which are likely to result in an unacceptable impact upon the occupiers of the new dwelling, which could compromise the day to day running of the garage, by either curtailing the services they currently provide or by resulting in the business unable to operate.
- 8.14 Impact on Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.15 The properties most likely to be affected by the proposal would be those directly adjacent - 2 Scott Road, 155A Portland Road and 157A Portland Road. As the proposed development would be contained within the profile of 2 Scott Road, other than the rear projection which would be set away from the shared boundary, it is not considered that any significant harm would arise.

8.16 Although the extension would be set within near to rear elevation of 155A / 157A Portland Road and at a higher level, the distance between the two properties is considered acceptable and is a common relationship within a residential context such as this. Furthermore both south side facing windows would be obscure glazed, thereby restricting any overlooking / loss of privacy.

8.17 Whilst the proposal would be visible from other properties in the vicinity and would allow for additional views to the front and rear, the level of separation is considered sufficient to avoid any significant harm in terms of loss of outlook or privacy.

**8.18 Sustainable Transport:**

The Highway Authority does not wish to request cycle parking as the site appears to be constrained and unlikely to be able to accommodate policy compliant cycle parking spaces. 2 cycles are shown on a submitted drawing however they would constrict a passageway and therefore not be policy compliant. It is also noted that there is secure cycle parking available to the general public on-street in the vicinity of the site.

Whilst the proposed development is unlikely to generate substantial additional person trips, it would result in a greater demand for resident parking in an area of high demand; there is a controlled parking zone scheme in place. The applicant has not submitted a parking survey to demonstrate that there is capacity for additional demand in surrounding streets therefore a condition is recommended to remove rights to resident permits to ensure that harm would not be caused.

**8.19 Sustainability:**

Policy SU2 of the Brighton & Hove Local Plan and CP8 of the Brighton & Hove City Plan Part One require new development to demonstrate a high level of efficiency in the use of water and energy. Policy CP8 requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. The relevant standards would be secured by condition in the event of an approval.

**9. EQUALITIES**

9.1 None identified



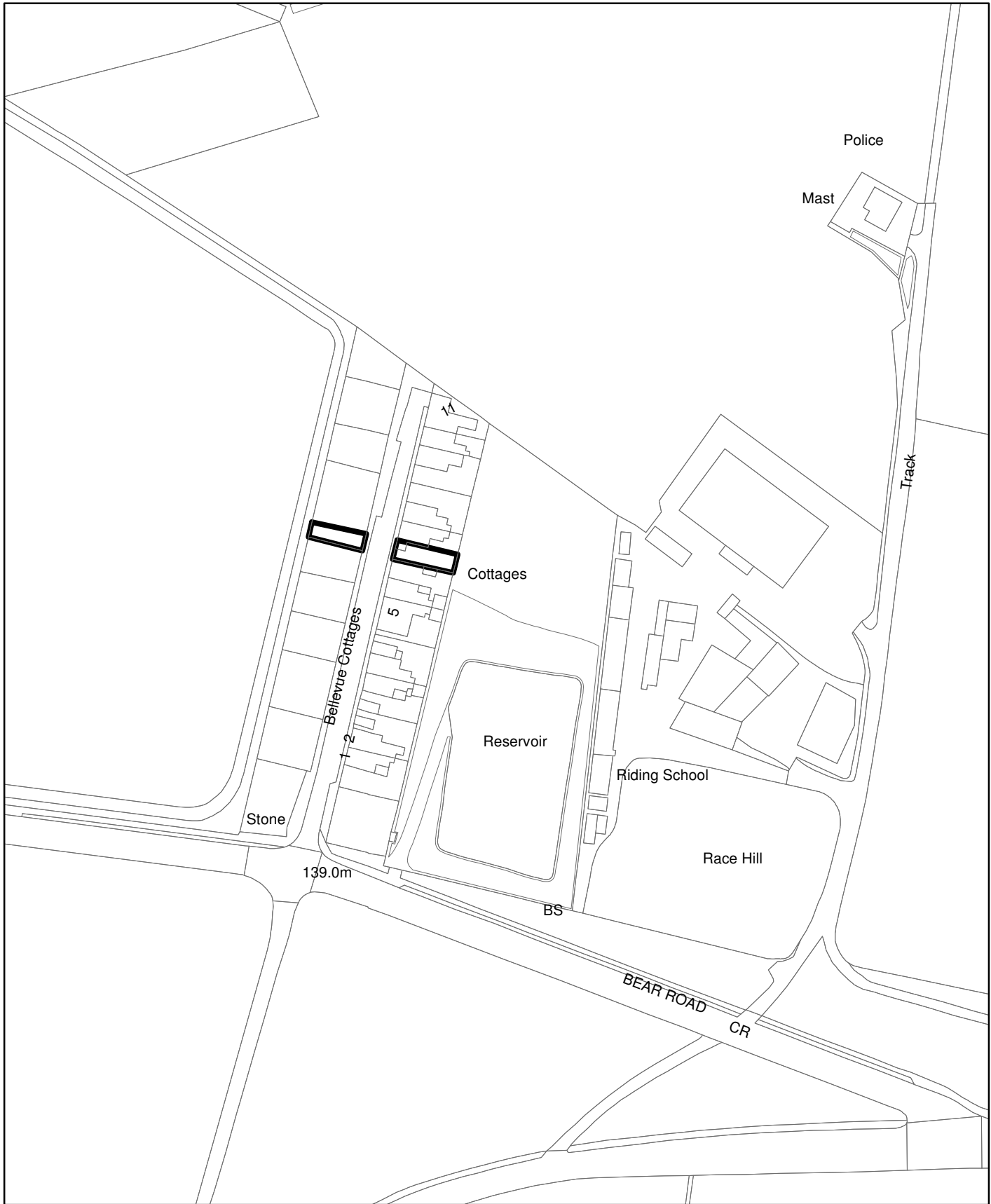
# **ITEM I**

**Land adjacent 7 Belle Vue Cottages,  
Brighton  
BH2018/01545**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2018/01545 Land adj to 7 Belle vue cottages Brighton



**Scale: 1:1,250**





<b><u>No:</u></b>	<b>BH2018/01545</b>	<b><u>Ward:</u></b>	<b>Moulsecoomb And Bevendean Ward</b>
<b><u>App Type:</u></b>	<b>Outline Application All Matters Reserved</b>		
<b><u>Address:</u></b>	<b>Land Adjacent To 7 Belle Vue Cottages Brighton BN2 6AA</b>		
<b><u>Proposal:</u></b>	<b>Outline application with all matters reserved for the erection of 1no two storey dwelling (C3) to adjoin existing dwelling at 7 Belle Vue Cottages.</b>		
<b><u>Officer:</u></b>	<b>Sonia Gillam, tel: 292265</b>	<b><u>Valid Date:</u></b>	<b>14.05.2018</b>
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	<b>09.07.2018</b>
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	<b>Mr Steven Seear Curtis House 34 Third Avenue Hove BN3 2PD</b>		
<b><u>Applicant:</u></b>	<b>Ms Jenny Martin 7 Belle Vue Cottages Brighton BN2 6AA</b>		

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	OS/01		14 May 2018

2. a) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:
- (i) layout;
  - (ii) scale;
  - (iii) appearance;
  - (iv) access; and
  - (v) landscaping.
- b) The reserved matters shall be carried out as approved.
- c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.
- Reason:** To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

3. The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved;  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
4. No extension, enlargement, alteration of the dwellinghouse(s) or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouse(s) as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.
5. The 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.
6. 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 and shall be maintained so as to ensure their availability for such use at all times.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.
7. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
  - a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
  - b) samples of all cladding to be used, including details of their treatment to protect against weathering
  - c) samples of all hard surfacing materials
  - d) details of the proposed window, door and balcony treatments
  - e) samples of all other materials to be used externally

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

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

8. The development hereby permitted shall not be occupied until a plan detailing the positions, height, design, materials and type of the boundary treatments between the rear gardens of the development hereby approved and the existing property at no. 7 Belle Vue Cottages shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to occupation of the development and shall thereafter be retained at all times.  
**Reason:** To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
9. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
10. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.
11. The development hereby permitted shall not be occupied until the dwelling hereby permitted has been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
12. The dwelling hereby approved shall be occupied until it has achieved an energy efficiency standard of a minimum of 19% CO<sub>2</sub> improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.

13. The dwelling hereby approved shall be occupied until it has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.

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

14. Other than demolition works and works to trees the development hereby permitted shall not be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

**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.

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 advice regarding permeable and porous hardsurfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)).
3. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
4. The water efficiency standard required is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application relates to land to the south of a semi-detached two storey property located on the eastern side of Belle Vue Cottages. The property has various extensions and a side garage.
- 2.2 Belle Vue Cottages is an unadopted private road made up of 11 no. two storey dwellings, 4 semi-detached pairs and one terrace of three dwellings. There are parking / garden areas over the road to the front. The street is surrounded by open space to the front and rear.
- 2.3 Outline planning permission is sought, with all matters reserved, for the erection of 1no two storey dwelling (C3) to adjoin existing dwelling at 7 Belle Vue Cottages.
- 2.4 The indicative plans show the side extension and garage of no. 7 demolished with a proposed two-storey dwelling which mirrors no. 7 in terms of scale, layout and appearance.

## 3. RELEVANT HISTORY

**BH2011/01572** Erection of single storey rear extension to replace existing extension and conservatory and excavation to create terrace (part retrospective) Approved 11.08.2011

**BH2008/02458** Two storey side extension, rear dormer with 2 no. Juliet balconies, 2 no. front dormers. Refused 14.10.2008

**BH2008/00740** Certificate of Lawfulness for proposed dormer roof extension to rear and two rooflights to front roofslope. Approved 21.04.2008

**91/0986/FP** Two storey extensions at side and rear. Approved 15.11.1991

## 4. REPRESENTATIONS

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

- Private road not maintained
- Increased traffic
- Parking issues
- Highway issues and safety
- Would affect unique character of street
- Overdevelopment
- Loss of privacy
- Overshadowing
- Noise and disturbance
- High density of occupants
- House may be used as HMO

- Flood risk from run-off water
- Impact on wildlife and biodiversity
- Street unsuitable for HGV vehicles
- Decrease in property values
- Set a precedent for similar development

## 5. CONSULTATIONS

- 5.1 **Sustainable Transport:** No objection subject to conditions relating to porous hardstanding, cycle parking provision and retention of vehicle parking area  
**Sustainable Drainage:** No objection subject to a soakaway for infiltration of run-off water into the chalk.

## 6. MATERIAL CONSIDERATIONS

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.3 Due weight 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
- SA4 Urban fringe
- CP1 Housing delivery
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP11 Flood risk
- CP12 Urban design
- CP14 Housing density
- CP19 Housing mix
- CP20 Affordable housing

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

TR7 Safe Development  
TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD14 Extensions and alterations  
QD15 Landscape design  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development  
HO13 Accessible housing and lifetime homes

Supplementary Planning Documents:

SPD14 Parking Standards

**8. CONSIDERATIONS & ASSESSMENT**

8.1 All matters are reserved and therefore the main consideration in the determination of this application relate to the principle of the development of a 1 no. two storey dwelling (C3) at the site.

**8.2 Planning Policy:**

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. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.

8.3 The Council's most recent land supply position was published in the 2017 SHLAA Update (February 2018) which showed a marginal surplus (5.0 years supply). However, the inspector for the recent planning appeal on Land south of Ovingdean Road (APP/Q1445/W/17/3177606) considered that the Council's delivery timescales for two sites were over-optimistic and concluded that there would be a five year supply shortfall of at least 200 dwellings. The Council's five year housing land supply figures are currently being updated as part of the annual monitoring process and an updated five year housing position will be published later this year. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

8.4 The site is within the Urban Fringe boundary. City Plan Policy SA4 states that development within the urban fringe will not be permitted except where a countryside location can be justified and where it can be clearly demonstrated that the proposal has had regard to the downland landscape setting of the city and any adverse impacts of development are minimised and appropriately mitigated and/or compensated for.

8.5 With regard to this, given the existing situation in the street, the principle of residential development in this area of the urban fringe has long been established and it is considered that there would not be significant adverse

effects from the development and therefore an additional dwelling at this site is acceptable in respect of policy SA4.

8.6 Furthermore, no objection is raised in principle to a new dwelling on the site, given that it is of a suitable size and location for development, based on the spacing of the other dwellings on the street and the size of the plot.

8.7 The existing gap in the street scene would allow a new dwelling to fit within the building line and general development pattern to the street. A single detached dwelling as proposed would not be at odds with the general pattern and grain of development in the area. As such no objection is raised to the principle of developing the site with a new residential property, subject to the acceptability of the other material considerations as detailed below.

**8.8 Design and Appearance:**

The indicative drawings submitted with the application indicate a design, scale which mirrors no. 7 in terms of scale, layout and appearance.

8.9 The street is made up of 4 no. semi-detached pairs and 1 no. terrace of three dwellings to the north of the application site. The site has already been developed with a side extension and garage. There is no objection to the demolition of these structures and it is considered that the proposed building, by virtue of the indicative design and form and subject to appropriate materials, would be in character with its neighbours and would not detrimentally impact on the positive qualities of the streetscene.

**8.10 Standard of accommodation:**

The proposed dwelling shown on the indicative drawings would measure 76m<sup>2</sup> and so the site appears capable of delivering a suitably sized dwelling containing a kitchen and living space and two bedrooms. As indicated, there would be a garden to the rear as well as a garden area to the front, commensurate with the size of the dwelling and the location.

8.11 Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. This can be secured by condition.

8.12 Refuse and recycling facilities can be secured by condition.

**8.13 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.

8.14 The indicative drawings show a scale and footprint that would respect the general pattern of development that is unlikely to result in a detrimental impact.



In addition, the indicative drawings show rear windows providing views over the gardens of neighbouring properties, however this slight intensification of overlooking would not warrant refusal of the application if these were submitted as part of reserved matters applications and so it is recommended that the site could deliver a new dwelling and protect the amenity of neighbours.

#### **8.15 Sustainable Transport:**

The applicant is proposing 1 car parking space for each two bedroom property. For this development of one residential unit the maximum car parking standard is 1 space. Therefore the proposed level of car parking is in line with the maximum standards and is deemed acceptable by the Council's Highways team. Cycle parking provision can be secured by condition.

The applicant is not proposing changes to the existing vehicle access arrangements onto the adopted (public) highway. It is noted that Belle Vue Cottages is not an adopted (public) highway; it has no footways, street lighting or turning head and has poor road surface and drainage. There have been objections from neighbours in this regard.

The Council's Highways officer has no objections to the scheme, however it is recommended that the driveway and hardstanding materials should be porous and/or permeable and no surface water should run-off onto the adopted (public) highway. The Council's Sustainable Drainage officer has advised that such a condition would be appropriate.

#### **8.16 Sustainability:**

Policy CP8 requires new development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. This can be secured by condition.

### **9. EQUALITIES**

- 9.1 The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) dwelling is achievable.



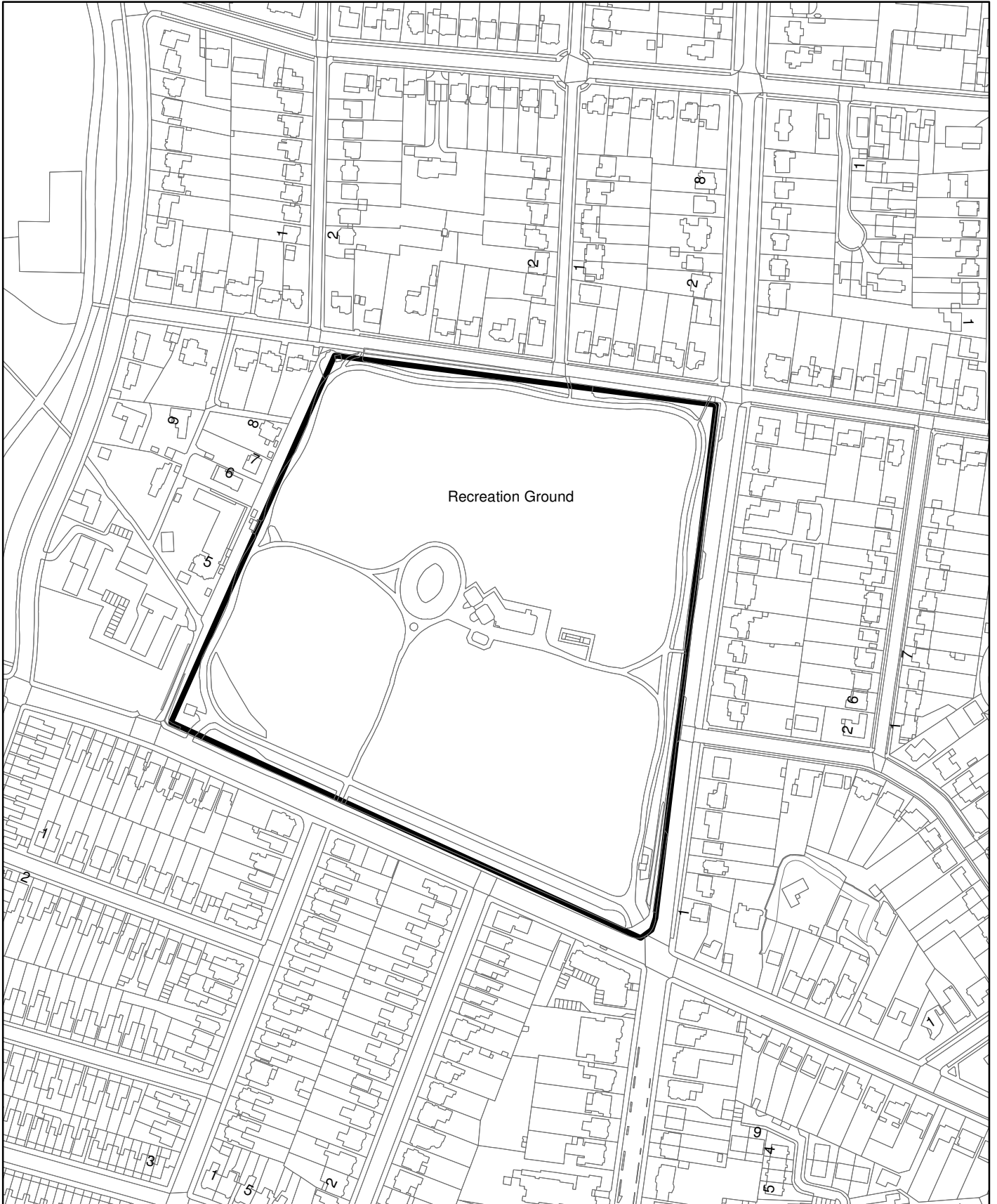
# **ITEM J**

**Hove Rugby Football Club,  
Hove Recreation Ground, Shirley Drive  
BH2018/01445**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2018/01445 Hove Rugby Football Club



**Scale: 1:3,224**



<b><u>No:</u></b>	<b>BH2018/01445</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Hove Rugby Football Club Hove Recreation Ground Shirley Drive Hove BN3 6NQ</b>		
<b><u>Proposal:</u></b>	<b>Erection of single storey side and rear extension incorporating formation of first floor side balcony.</b>		
<b><u>Officer:</u></b>	Thomas Emery, tel: 293817	<b><u>Valid Date:</u></b>	08.05.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	03.07.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	The Alexander Partnership Campbell House 21 Campbell Road Brighton BN1 4QD		
<b><u>Applicant:</u></b>	Hove RFC Hove Rugby Football Club Hove Recreation Ground Shirley Drive Hove BN3 6NQ		

## 1. RECOMMENDATION

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

Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Existing Floor Plans	12/1705684		8 May 2018
Floor Plans Proposed	04/1802707		8 May 2018
Location Plan			8 May 2018
Floor Plans Proposed	11/1708689		8 May 2018
Existing Floor Plans	20/1705684		8 May 2018
Floor Plans Proposed	01/1802707		8 May 2018
Roof Plan Proposed	13/1705684		8 May 2018
Elevations Proposed	16/1708689		8 May 2018
Elevations Proposed	18/1705684		8 May 2018
Elevations Proposed	14/1705684		8 May 2018
Block Plan			8 May 2018

2. The use of the balcony hereby permitted shall not be carried out except between the hours of 09:00 and 22:00 on Mondays to Sundays, including Bank or Public Holidays.

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

3. Prior to first use 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 use of the development and shall thereafter be retained for use at all times.

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

4. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

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

Informatives:

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

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site relates to the Hove Rugby Football Club, located in the centre of Hove Recreation Ground, Shirley Drive. The application proposes a single storey side and rear extension which will extend existing changing rooms and rear kitchen and bar areas, and the formation of additional changing rooms and a new club room incorporating a first floor balcony.

**3. RELEVANT HISTORY**

**BH2010/01006** Extensions to clubhouse to provide additional changing rooms, new meeting room and entrance porch. Approved

**PRE2017/00315**

**4. REPRESENTATIONS**

- 4.1 **Fourteen (14)** letters have been received within the consultation period objecting the proposed development for the following reasons:

- Noise disturbance
- Parking
- Additional traffic
- Design and appearance
- Overdevelopment
- Impact on residential amenity



## **5. CONSULTATIONS**

### **5.1 Sport England : No objection**

No objection as the proposed development is for ancillary facilities supporting the principal use of the site as a playing field and does not affect their use.

### **5.2 Sports Facilities And Development: No comment**

### **5.3 Policy Team: No Objection**

Application is ancillary to existing use and is therefore not contrary to CP16 Open Space and supports that of Policy CP17 (Sports Provision).

### **5.4 City Parks: No comment**

### **5.5 Highway Authority Comment**

The application is proposing an additional changing room, a new meeting room and terrace above at the rugby club located in Hove Recreation Ground.

It is acknowledged that the new facilities may increase trips to the site and that the applicant has not provided supporting transport information. However the Highway Authority deems that it would be disproportionate for this size and type of development to request, for example, a transport assessment or parking survey as:

- There are no additional playing fields/sports pitches being proposed that could substantially increase trips;
- The proposal is improving the existing facilities; and
- There is free parking available on the northern and eastern perimeter streets surrounding the grounds (a maximum of 4 hours) for those who may wish to visit by car and park nearby.

5.6 The Highway Authority does wish to request further details of cycle parking in line with the City Council's Parking Standards SPD14 and a condition on cycle parking is recommended to be attached.

## **6. MATERIAL CONSIDERATIONS**

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

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

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

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP12 Urban design  
CP16 Open space  
CP17 Sports provision

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

TR14 Cycle access and parking  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
QD14 Extensions and alterations  
QD27 Protection of amenity

#### Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

## 8. **CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the impact of the proposed development on the appearance and character of the building, surrounding streetscene and wider area, and the amenities of the neighbouring properties.
- 8.2 The application incorporates additional changing room facilities for the Rugby Club and is therefore supported by Policy CP17 Sports Provision.

### **8.3 Design and Appearance:**

The proposed extension to the eastern side has followed pre-application advice and is considered to be acceptable.

The extension to the north-west of the property incorporates a pitch roof which matches the original building.

The rear extension spans the length of the property with a depth of approximately 2.4 metres and incorporates a flat roof. Although this differs from the pitch roof of the original building, the impact is deemed to be minimal due to the higher land level on the northern side of the property reducing the visual impact.

The materials of the proposed extension will match that of the existing building, minimising the visual impact.

The proposed extensions are considered suitable additions to the building that would not harm its appearance or that of the wider area, in accordance with policy QD14 of the Brighton & Hove Local Plan and SPD12 guidance.

#### **8.4 Impact on Amenity:**

The application has received several objections regarding the potential impact on residential amenity.

The application is approximately 100m from the nearest dwelling and views from neighbouring dwellings onto the application site are restricted due to sufficient vegetation on the site boundaries. This distance is deemed sufficient to make any potential loss of privacy or noise nuisance from the proposed balcony insignificant.

A condition is recommended to restrict the hours of use for the balcony to between 9am and 10pm on Mondays to Sundays, including Bank or Public Holidays.

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. Subject to the recommended condition, the application is not deemed to result in a detrimental impact on neighbouring amenity.

#### **8.5 Parking and traffic**

Several objections raised the issue of a potential increase in traffic and the impact on parking within the area. The Highway Authority has confirmed that the proposal is not creating additional playing fields or sports pitches that could potentially increase trips to the site and there is sufficient parking on the northern and eastern perimeters for those who wish to visit by car. The proposal is deemed to have an insignificant effect on parking and traffic within the area. However, a condition is inserted requesting details of a cycle parking scheme, to be approved and implemented prior to first use.

### **9. EQUALITIES**

#### **9.1 None identified**



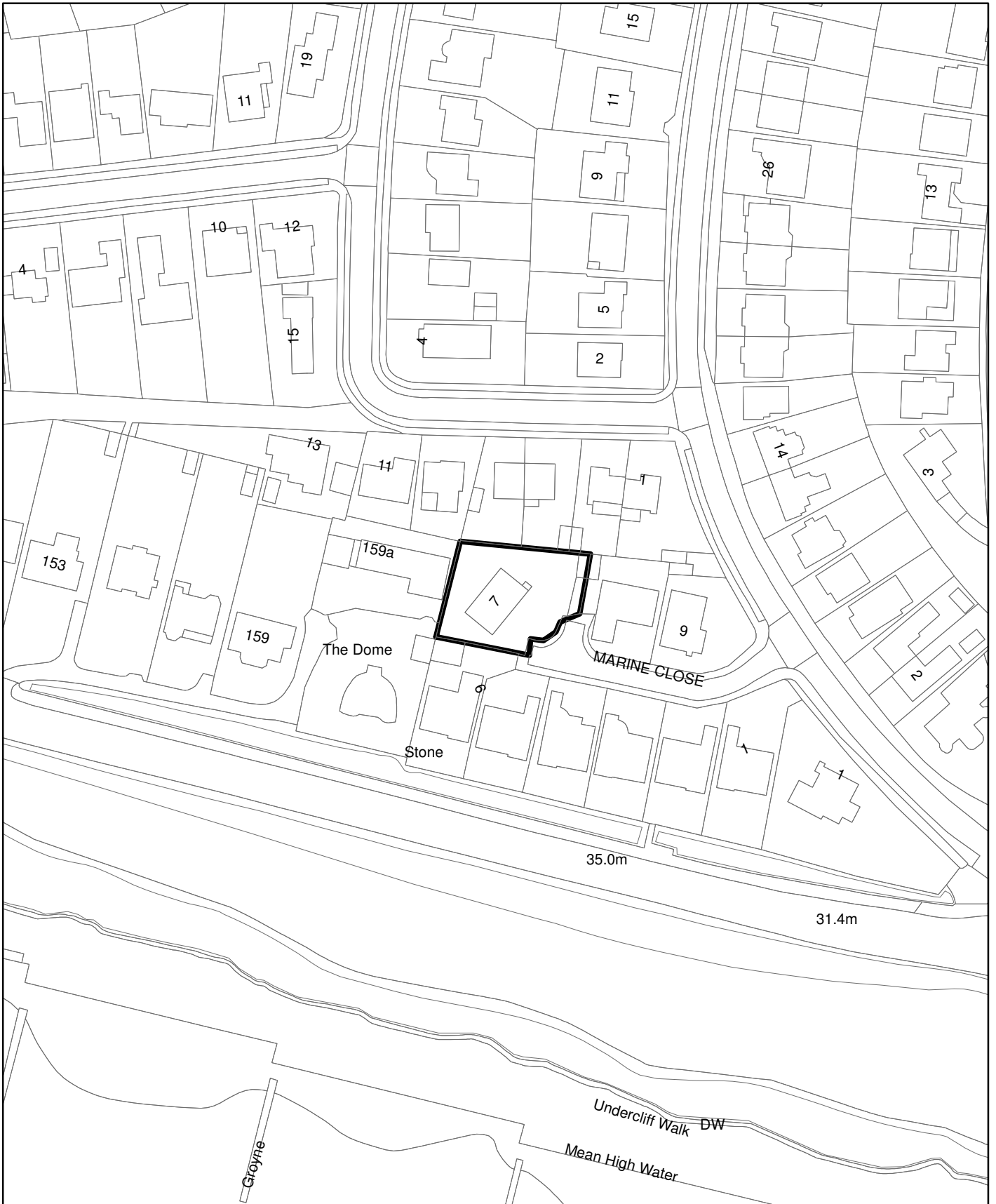
# **ITEM K**

**7 Marine Close,  
Saltdean  
BH2018/01645**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2018/01645 7 Marine Close Saltdean



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2018/01645</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>7 Marine Close Saltdean Brighton BN2 8SA</b>		
<b><u>Proposal:</u></b>	<b>Erection of two storey side extension and single storey rear extension. Roof alterations including relocating dormer and installation of rooflights and revised fenestration.</b>		
<b><u>Officer:</u></b>	Thomas Emery, tel: 293817	<b><u>Valid Date:</u></b>	23.05.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	18.07.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Jaimie Blomqvist 50 Grand Parade Brighton BN2 9QA		
<b><u>Applicant:</u></b>	Andrew Sinclair 7 Marine Close Saltdean Brighton BN2 8SA		

## 1. RECOMMENDATION

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

Conditions:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	A.001		23 May 2018
Elevations Proposed	A.201		23 May 2018
Existing Elevations	A.200		23 May 2018
Existing Section	A.300		23 May 2018
Sections Proposed	A.301		23 May 2018
Roof Plan Proposed	A.103		23 May 2018
Existing Floor Plans	A.100		23 May 2018
Floor Plans Proposed	A.102		23 May 2018
Existing Floor Plans	A.101		23 May 2018

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
3. The external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.  
**Reason:** To ensure a satisfactory appearance to the development in the interests of the visual amenities of the area and to comply with policies QD14 of

the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

4. The first floor windows in the north elevation of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window(s) which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with 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. The permission hereby issued is based upon the applicant's submission for a part single and part two storey extension as part of the overall use of the property as a single dwellinghouse. The applicant is advised that any use of the accommodation for a purpose separate to a single dwellinghouse such as subdivision of the plot would constitute a material change of use which requires permission in its own right.

**3. RELEVANT HISTORY**

**BH2017/00536** Demolition of garages, remodelling of existing dwelling and erection of 1no three bedroom dwelling (C3). Refused on 13<sup>th</sup> June 2017, and subsequent appeal dismissed on 6<sup>th</sup> December 2017. The reasons for the refusal were as follows:

1. The proposed subdivision to form a building plot would fail to emphasise and or enhance the positive qualities of the local neighbourhood and would result in an overly cramped form of development, contrary to the prevailing plot sizes and layouts within the immediate vicinity and detracts from the appearance and character of the site and the wider surrounding area. The development would therefore be contrary to policy CP12 and CP14 of the Brighton & Hove City Plan.
2. The proposed dormer window on the eastern section of the rear roofslope on the new dwelling by reason of its first floor height, proximity to the shared boundary and 15m unobstructed distance to the rear elevations of numbers 3 and 5 Lenham Avenue would be unneighbourly due to overlooking into the rear gardens and perception of overlooking into the rear windows causing the occupiers a significant loss of privacy contrary to Policy QD27 of the Brighton & Hove Local Plan.
3. The proposed dormer on the rear roofslope of the existing building forming number 7 Marine Close would expand across the entire width of the rear elevation and would appear as a bulky addition which would occupy a

majority of the rear roofslope, giving the impression of an extra storey on top of the property featuring large areas of cladding. The resultant structure would be bulky and overly dominant on the rear elevation which would have a harmful impact on the character and appearance of the host building and wider area contrary to Policy QD14 of the Brighton & Hove Local Plan and SPD12 guidance.

**BH2016/04368** Remodelling of dwelling including two storey rear extension, extension to roof and raised ridge height, reduction to width of dwelling, creation of front balcony, relocated dropped curb and associated alterations. Refused on 18<sup>th</sup> March 2016.

**BH2015/04367** Erection of 1no four bedroom bungalow (C3) and alterations to existing dwelling. Refused on 18<sup>th</sup> March 2016.

#### **4. CONSULTATIONS**

4.1 None

#### **5. REPRESENTATIONS**

5.1 **Six (6)** letters have been received objecting to the proposed development on the following grounds:

- Overdevelopment
- Overshadowing
- Proximity to boundary
- Poor design
- Detrimental effect on property value
- Restriction of view
- Noise
- Inappropriate height of development

#### **6. RELEVANT POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

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

QD14 Extensions and alterations

QD27 Protection of Amenity

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

#### **7. CONSIDERATIONS & ASSESSMENT**

7.1 The application site is a detached dwelling that proposes the erection of a two storey side extension and single storey rear extension including roof alterations.

7.2 The main considerations in the determination of this application relate to the impact of the proposed development on the appearance and character of the building, the wider streetscene and the impact on neighbouring amenity.

**7.3 Impact on Amenity:**

The nearest neighbour is 159a Marine Drive to the west but only the single storey extension is positioned to the west of the main house which will have no amenity impacts in this direction.

7.4 The nearest property to the north side of the application site where the two storey extension is positioned is 7 Lenham Avenue. The main house of no.7 is located at a distance of 16m and so the proposed extension is not deemed to cause any overshadowing of the main house. The closest element of the proposed development is the single storey extension of approximately 2.7 metres in height located to the end of the neighbouring garden which is not deemed to cause a significant impact on their amenity. A small window is proposed at first floor level on this elevation which poses a risk of a new overlooking vantage point; a condition is recommended to address this.

**7.5 Design and Appearance:**

In terms of design and appearance the proposed extension is deemed to resemble that of the existing building by using matching materials and forms and is therefore acceptable. Guidance in SPD12 recommends side extensions are set back by at least 0.5 metres. However, at this site a setback would be more noticeable than the proposal which provides a seamless extension to the existing house.

**8. EQUALITIES**

8.1 None identified

# **ITEM L**

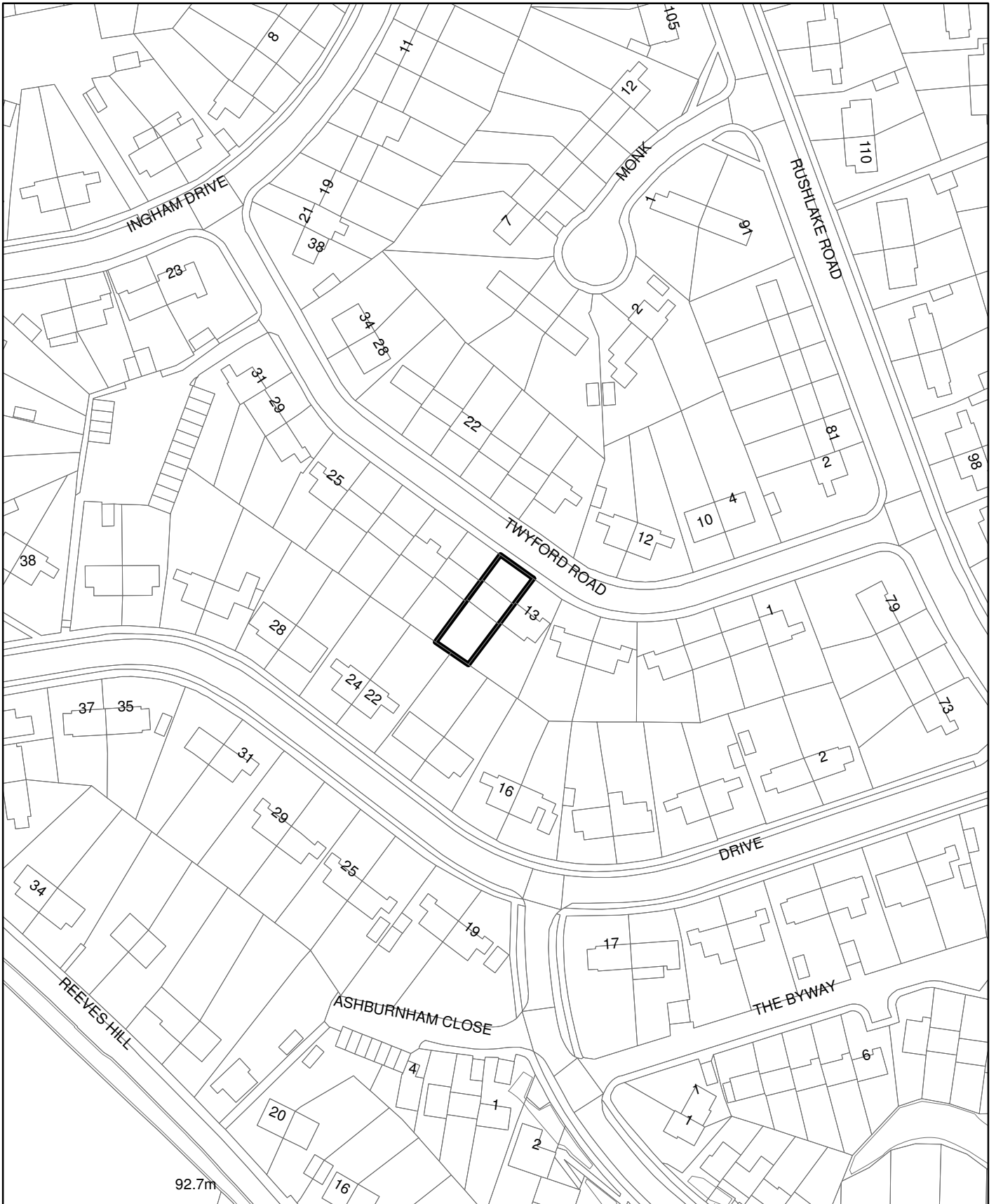
**15 Twyford Road, Brighton**

**BH2018/00316**

**DATE OF COMMITTEE: 15<sup>th</sup> August 2018**



# BH2018/00316 15 Twyford Road Brighton



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2018/00316</b>	<b><u>Ward:</u></b>	<b>Hollingdean And Stanmer Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>15 Twyford Road Brighton BN1 9GN</b>		
<b><u>Proposal:</u></b>	<b>Change of Use from 3 bedroom single dwelling (C3) to a single dwelling or a 6 bedroom House in Multiple Occupation (C3/C4) with alterations to fenestration.</b>		
<b><u>Officer:</u></b>	Joanne Doyle, tel: 292198	<b><u>Valid Date:</u></b>	05.02.2018
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	02.04.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	The Planning Practice 18 Tillstone Street Brighton BN2 0BD		
<b><u>Applicant:</u></b>	Brightwhite Developments Limited C/O The Planning Practice 18 Tillstone Street Brighton BN2 0BD		

Councillors Hill and Inkpen-Leissner have requested this application is determined by the Planning Committee.

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor plans and elevations proposed	01(SITE BLOCK PLAN)	-	31 January 2018

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

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

3. The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplans, drawing no. 01 received on 31st January 2018, and shall be retained as such thereafter. The layout of

the kitchen/dining/living room shall be retained as communal space at all times and shall not be used as bedrooms.

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

4. 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 site relates to a two storey mid-terrace property, located on the south west side of Twyford Road. The area is residential in nature.
- 2.2 The property is not located in a conservation area, but there is an Article Four Directive in place restricting the conversion of single dwelling houses to houses of multiple occupation (C4 or sui generis use class).
- 2.3 Planning permission is sought for a change of use from a three bedroom dwelling (C3) to a dwellinghouse or six bedroom small House in Multiple Occupation (C3/C4) with alterations to fenestration (part retrospective).
- 2.4 During the course of the application the description has been amended for the scheme to propose a change of use to a (C3/C4). This would allow the use to change back and forth between C3 and C4 for up to 10 years.
- 2.5 There is an existing planning application at no. 12 Twyford Road for a change of use to a HMO. This application was registered first and has therefore been included as a HMO in the mapping exercise. This application was approved at Committee on the 18th July 2018.

**3. RELEVANT HISTORY**

BH2018/00319 (12)- Change of use from three bedroom single dwelling (C3) to six bedroom small house in multiple occupation (C4), with alterations to fenestration (part retrospective). Under consideration.

#### **4. REPRESENTATIONS**

**4.1 One (1)** letter of representation has been received commenting that:

- Building works have commenced

**4.2 Fifty three (53)** letters of representation has been received objecting to the proposal for the following reasons:

- Noise nuisance and anti-social behaviour
- Litter problems
- Already too many HMO's in the area
- Extra strain on services and parking
- Plans look inadequate to cater for a HMO
- Area needs more family homes

**4.3 Councillors Hill and Inkipin-Leissner** have objected to the proposal and requested that the application be heard at Committee, letter attached.

**4.4** Following the re-advertisement of the application, **one (1)** further letter of representation has been received objecting to the proposal for the following reasons:

- Additional traffic
- Noise and anti-social behaviour
- Overdevelopment
- Poor design
- Too many HMO's

#### **5. CONSULTATIONS**

**5.1 Transport Planning:** No comment

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

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

**6.2** The development plan is:

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

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

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

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP9 Sustainable transport

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

QD27 Protection of amenity

HO5 Provision of private amenity space in residential development

#### Supplementary Planning Documents:

SPD14 Parking Standards

## 8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relates to the principle of the change of use, the design of the external works, the standard of accommodation which the use would provide, impact upon neighbouring amenity and transport issues.

### 8.2 Principle of Development:

The proposal seeks consent for the change of use from a dwellinghouse (C3) to a dwellinghouse or small house in multiple occupation (C3/C4). This would allow the use to change back and forth between C3 and C4 for up to 10 years.

8.3 The site is located within an Article 4 Direction area (effective from 5th April 2013) which removes permitted development rights under Class L (b) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, to change from a C3 (dwellinghouses) Use to a C4 (houses in multiple occupation) Use. As a result of the Article 4 Direction planning permission is required for the use of the properties in this location as HMOs.

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

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

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

8.5 A mapping exercise has taken place which indicates that there are 41 neighbouring properties within a 50m radius of the application property; 1 other property has been identified as being in HMO use within the 50m radius and application BH2018/00319 at no. 12 Twyford Road has been approved planning permission for a change of use to a C4 HMO. The percentage of neighbouring properties in HMO use within the radius area is therefore 4.87% (including no. 12).

8.6 Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change to a C4 HMO complies with policy CP21.

**8.7 Design and Appearance:**

The proposed alterations to windows are considered acceptable in design terms.

**8.8 Standard of Accommodation:**

Whilst the Local Planning Authority does not have adopted space standards for comparative purposes the Government's recent Technical Housing Standards - National Described Space Standards March 2015 document states that "in order to provide one bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and is at least 2.15m wide" and with respect of a double bed "has a floor area of at least 11.5m<sup>2</sup>" and "one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide".

8.9 The changes to the internal layout of the property would result in 2no bedrooms at ground floor level with an open planned kitchen and living area and 4no bedrooms and bathroom at first floor level.

8.10 The communal area, consisting of an open planned kitchen, lounge and diner, measuring approximately 23.5sqm, provides an adequate amount of amenity space for a 6 person property, with a functioning layout. The bedrooms meet the minimum national space standards and are adequate in terms of size to cater for the furniture needed. There are good levels of natural light and outlook within the property. The standard of accommodation is therefore acceptable.

8.11 If however the communal space was converted to a bedroom in future, this would severely restrict the level of shared space available to the occupants. Therefore a condition will be applied restricting the use of this room to

communal use only to ensure an acceptable layout and level of communal space is retained.

**8.12 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.

8.13 The proposed change of use from a C3 dwellinghouse to six bedroom C4 HMO would result in a more intensive use of the property and a greater impact on the immediate and surrounding area. It is considered that the increased impact likely to be caused in this case would not be of a magnitude which would cause demonstrable harm to neighbouring amenity and would not warrant the refusal of planning permission.

8.14 The proposed external works would not result in amenity harm.

**8.15 Sustainable Transport:**

Uplift in the number of trips could be expected as a result of the proposals. However, it is not considered that this would be substantial or amount to a severe impact upon surrounding highway and transport networks.

Cycle parking is not proposed; a condition will be attached requiring details of this.

**9. EQUALITIES**

9.1 None identified

COUNCILLOR REPRESENTATION

Cllr Tracey Hill  
Planning application - BH2018/00316

I object to the application and if the officer recommendation is to approve, request that it is referred to planning committee.

Coldean is experiencing the negative impacts of HMO proliferation and I get numerous complaints about noise, refuse/recycling and antisocial behaviour which is linked with the HMOs.

It is a cumulative effect of having a certain number within one place, rather than connected with any specific property. This is why the 10% policy is so important. On the HMO map I can see properties in Ashburnham Drive, Rushlake Road and Monk Close which could be within the 10% radius.

There is also a planning application at 12 Twyford Road

so please can this be taken into account when the 10% threshold is calculated. This is a terraced house, and the impact of the change of use on immediate neighbours is likely to be substantial. I have had many complaints, not about tenants who are particularly noisy but simply arising from a group of up to 6 adults keeping different hours from a family. This number of occupants sounds too high for this property.

If approval is recommended, it is absolutely essential that the number of occupants is limited by condition and permitted development rights removed. But I very much hope that permission will be refused. Thank you.





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

<b>Date</b>	<b>Address</b>	<b>Ward</b>	<b>Proposal</b>	<b>Update</b>
06/02/18	Gala Bingo Site, Eastern Road, Brighton	Queen's Park	Residential-led mixed use redevelopment for c.400 homes set over c. 2,900sqm commercial and community uses.	Drawing up PPA and a further round of pre-app is anticipated.
06/03/18	Preston Barracks (Watts Site), Lewes Road, Brighton	Hollingdean & Stanmer	Reserved matters for multi-storey car park & Business School.	Application BH2018/00689 under consideration.
06/03/18	29-31 New Church Road, Hove	Westbourne	Mixed use development.	Application BH2018/02126 under consideration.
06/03/2018 & 03/04/2018	Toad's Hole Valley, Hove	Hangleton & Knoll	Mixed use development comprising residential, neighbourhood centre, secondary school, B1 floorspace, SNCI enhancements, accesses from highway, landscaping and parking.	Transport issues presented to members 06/03/18. All other issues presented on 03/04/18. Negotiations & discussions continuing.
08/05/18	Longley Industrial Estate, New England Street, Brighton	St Peter's & North Laine	Mixed use scheme, 3000sqm B1 with 200-250 'build-to-rent' residential units above, 1000sqm communal space, disabled car parking, public realm improvements.	Pre-application discussions in progress.
08/05/18	119-131 London Road (Co-op and Boots), Brighton	St Peter's & North Laine	Mixed use redevelopment to re-provide retail and student accommodation above.	
08/05/18	Rear of Lyon Close,	Goldsmid	Mixed use scheme 160 units (C3)	Application BH2018/01738

**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		and 1000sqm office (B1) floorspace.	submitted.
05/06/18	Former Peter Pan amusements, Madeira Drive, Brighton	Queen's Park and East Brighton	Mixed use leisure/commercial including outdoor pool (temporary 5yrs).	Application BH2018/01973 submitted
17/07/18	Enterprise Point, Melbourne Street, Brighton	Hanover & Elm Grove	Purpose Built Student Housing (350 bedspaces), with some employment space at ground floor and affordable housing block	
14/08/18 requested	KAP, Newtown Road	Hove Park	Mixed Use residential / B1 scheme. Approx. 150 units	
14/08/18 requested	21 – 24 Melbourne Street	Hanover & Elm Grove	Co-living (100 units) C3 / B1	
11/09/18 requested	Gala Bingo Site, Eastern Road, Brighton	Queen's Park	Residential-led mixed use redevelopment for c.400 homes set over c. 2,900sqm commercial and community uses. <b>NB the scheme is likely to be revised in advance of the presentation to Members.</b>	Drawing up PPA and a further round of pre-app. Preparing to submit revised scheme in August. Previously presented scheme to Members on 6 <sup>th</sup> Feb. Scheduled for SE Design Review on 4 <sup>th</sup> Sept. Previously held Design Review on 30 <sup>th</sup> Jan.
11/09/18 requested	Sackville Trading Estate, Sackville Road, Hove	Hove Park	Mixed residential and commercial development.	
09/10/18 requested	Urban Fringe at Coldean Lane, NW of Varley Halls	Hollingdean & Stanmer	Residential	
09/10/18	Land at former Belgrave Nursery, Clarendon Place	South Portslade	Residential	

**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.**

TBC	GBMET Pelham Campus, Brighton (2 <sup>nd</sup> pre-app presentation)	St Peter's & North Laine	Hybrid application including detailed proposals for extensions and refurbishment of existing college building and new public square. Outline planning application for new residential development east of Pelham Street.	
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**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

## Agenda Item 34

Brighton & Hove City Council

### NEW APPEALS RECEIVED

#### WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

#### **GOLDSMID**

BH2016/02663

Unit 1-3 Ellen Street Hove BN3 3LN

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..

APPEAL IN PROGRESS

03/07/2018

Planning (Applications) Committee

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#### WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

#### **HANGLETON AND KNOLL**

BH2017/03811

6 Fallowfield Crescent Hove BN3 7NQ

Erection of a single storey rear & side extension incorporating garage conversion to provide additional living space.

APPEAL IN PROGRESS

11/06/2018

Delegated

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#### WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

APPEAL STATUS

APPEAL RECEIVED DATE

APPLICATION DECISION LEVEL

#### **HANOVER AND ELM GROVE**

BH2018/00481

97 Brading Road Brighton BN2 3PE

Creation of dormer to rear, alterations to fenestration and associated works.

APPEAL IN PROGRESS

18/06/2018

Delegated

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#### WARD

APPEALAPPNUMBER

ADDRESS

DEVELOPMENT DESCRIPTION

#### **HANOVER AND ELM GROVE**

BH2018/00666

249 Queens Park Road Brighton BN2 9XJ

Change of use from five bedroom small house in multiple occupation (C4) to seven bedroom house in multiple occupation (Sui Generis) with alterations to fenestration and creation of cycle storage. (Retrospective)

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 10/07/2018  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **HANOVER AND ELM GROVE**  
APPEALAPPNUMBER  
ADDRESS 249 Queens Park Road Brighton BN2 9XJ  
DEVELOPMENT DESCRIPTION Appeal against  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 10/07/2018  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **HANOVER AND ELM GROVE**  
APPEALAPPNUMBER  
ADDRESS 33 Hallett Road Brighton BN2 9ZN  
DEVELOPMENT DESCRIPTION Appeal against Enf Notice - Material Change of Use  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 29/06/2018  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **HOLLINGDEAN AND STANMER**  
APPEALAPPNUMBER BH2017/02307  
ADDRESS 63 Park Road Brighton BN1 9AA  
DEVELOPMENT DESCRIPTION Change of use from five bedroom small house in multiple occupation (C4) to eight bedroom house in multiple occupation (Sui Generis).  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/06/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **HOLLINGDEAN AND STANMER**  
APPEALAPPNUMBER BH2018/00357  
ADDRESS 27 Hollingbury Park Avenue Brighton BN1 7JG  
DEVELOPMENT DESCRIPTION Certificate of lawfulness for proposed loft conversion incorporating 2no front rooflights and rear dormer.  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 03/07/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD** **HOVE PARK**  
APPEALAPPNUMBER BH2018/00484  
ADDRESS 299 Dyke Road Hove BN3 6PD

<u>DEVELOPMENT DESCRIPTION</u>	Erection of a two storey side extension above existing garage with associated roof alterations.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	18/06/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HOVE PARK</b>
<u>APPEALAPPNUMBER</u>	BH2018/00863
<u>ADDRESS</u>	16 Hove Park Road Hove BN3 6LA
<u>DEVELOPMENT DESCRIPTION</u>	Erection of ground and first floor rear extensions and raised terrace, remodelling and extension to roof including front and rear rooflights and associated works.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	02/07/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>HOVE PARK</b>
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	2 Barrowfield Lodge Barrowfield Drive Hove BN3 6TQ
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	27/06/2018
<u>APPLICATION DECISION LEVEL</u>	Not Assigned
<b><u>WARD</u></b>	<b>MOULSECOOMB AND BEVENDEAN</b>
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	103 Halland Road Brighton BN2 4PG
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	26/06/2018
<u>APPLICATION DECISION LEVEL</u>	Not Assigned
<b><u>WARD</u></b>	<b>MOULSECOOMB AND BEVENDEAN</b>
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	130 Coombe Road Brighton BN2 4EE
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	27/06/2018
<u>APPLICATION DECISION LEVEL</u>	Not Assigned
<b><u>WARD</u></b>	<b>MOULSECOOMB AND BEVENDEAN</b>
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	20 Ashurst Road Brighton BN2 4PH

<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL LODGED
<u>APPEAL RECEIVED DATE</u>	07/06/2018
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

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<b><u>WARD</u></b>	<b>PATCHAM</b>
<u>APPEALAPPNUMBER</u>	BH2017/04028
<u>ADDRESS</u>	1 Eskbank Avenue Brighton BN1 8SL
<u>DEVELOPMENT DESCRIPTION</u>	Erection of a single storey rear extension incorporating 2no rooflights. Hip to gable roof alterations incorporating installation of front and rear dormers.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	02/07/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated

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<b><u>WARD</u></b>	<b>QUEEN'S PARK</b>
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	Queens Park Villa 30 West Drive Brighton BN2 0QU
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	14/06/2018
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

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<b><u>WARD</u></b>	<b>ROTTINGDEAN COASTAL</b>
<u>APPEALAPPNUMBER</u>	BH2016/05906
<u>ADDRESS</u>	Aqua Vista 107 Marine Drive Rottingdean Brighton BN2 7GE
<u>DEVELOPMENT DESCRIPTION</u>	Variation of condition 2, 13, 14, 15, 16 & 17 of application BH2015/01745 (Demolition of existing dwelling and outbuildings and erection of a three storey building with additional lower ground floor entrance to provide 7no flats and erection of 2no semi-detached houses accessed from Chailey Avenue with associated landscaping, parking, cycle and bin storage.) to allow amendments to parking, cycle storage, landscaping and external materials in relation to the apartments.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	02/07/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated

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<b><u>WARD</u></b>	<b>ROTTINGDEAN COASTAL</b>
<u>APPEALAPPNUMBER</u>	BH2017/03816



<u>ADDRESS</u>	76 Greenbank Avenue Saltdean Brighton BN2 8QQ
<u>DEVELOPMENT DESCRIPTION</u>	Enlargement of existing conservatory, erection of single storey rear extension, creation of raised decking with railings, privacy screens and steps into garden. (Part-Retrospective)
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	27/06/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>ROTTINGDEAN COASTAL</b>
<u>APPEALAPPNUMBER</u>	BH2017/04034
<u>ADDRESS</u>	98 Longhill Road Brighton BN2 7BD
<u>DEVELOPMENT DESCRIPTION</u>	Erection of first floor extension above existing rear extension with revised fenestration.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	14/06/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>ROTTINGDEAN COASTAL</b>
<u>APPEALAPPNUMBER</u>	BH2018/00602
<u>ADDRESS</u>	Lanterns The Green Rottingdean Brighton BN2 7DD
<u>DEVELOPMENT DESCRIPTION</u>	Roof alterations including 3no. front dormers & 3no. rear rooflights.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	18/06/2018
<u>APPLICATION DECISION LEVEL</u>	Delegated
<b><u>WARD</u></b>	<b>ROTTINGDEAN COASTAL</b>
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	76 Greenbank Avenue Saltdean Brighton BN2 8QQ
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	27/06/2018
<u>APPLICATION DECISION LEVEL</u>	Not Assigned
<b><u>WARD</u></b>	<b>SOUTH PORTSLADE</b>
<u>APPEALAPPNUMBER</u>	BH2018/00279
<u>ADDRESS</u>	15 Fairfield Gardens Portslade BN41 2BJ
<u>DEVELOPMENT DESCRIPTION</u>	Erection of first floor rear extension with alterations to fenestration.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	18/06/2018

APPLICATION DECISION LEVEL Delegated

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**WARD**

**ST. PETER'S AND NORTH LAINE**

APPEALAPPNUMBER

BH2017/02845

ADDRESS

27 - 31 London Road Brighton BN1 4JB

DEVELOPMENT DESCRIPTION

Display of 2no non-illuminated fascia signs.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

09/07/2018

APPLICATION DECISION LEVEL

Delegated

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**WARD**

**ST. PETER'S AND NORTH LAINE**

APPEALAPPNUMBER

BH2018/00131

ADDRESS

43 Surrey Street Brighton BN1 3PB

DEVELOPMENT DESCRIPTION

Replacement of windows to the front elevation (retrospective).

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

02/07/2018

APPLICATION DECISION LEVEL

Delegated

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**WARD**

**ST. PETER'S AND NORTH LAINE**

APPEALAPPNUMBER

33-34 Gloucester Road Brighton BN1 4AQ

ADDRESS

DEVELOPMENT DESCRIPTION

Appeal against

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

28/06/2018

APPLICATION DECISION LEVEL

Not Assigned



**Brighton & Hove  
City Council**

### INFORMATION ON HEARINGS / PUBLIC INQUIRIES

Planning Committee 15<sup>th</sup> August 2018

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

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**APL2018/00077  
ENF2017/00238  
Queens Park Villa  
30 West Drive  
Brighton  
BN2 0QU**

**INPROG - Appeal In Progress**

**APL2018/00079  
APP/Q1445/W/18/3192649**

**Unit 1-3  
Ellen Street  
Hove  
BN3 3LN**

**INPROG - Appeal In Progress**



**APPEAL DECISIONS****A) BH2016/05530 - LAND SOUTH OF OIVINGDEAN ROAD**

- Appeal against refusal to grant outline planning permission for proposed construction of 45 one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space and strategic landscaping. New vehicular access from Ovingdean Road and junction improvements.

**APPEAL ALLOWED** (Committee Decision)

**B) BH2017/01810 - 12 RUSHLAKE ROAD, BRIGHTON, BN1 9AD**

Appeal against refusal to grant planning permission for proposed alterations to the existing outbuilding in rear garden including replacement of existing garage door, alteration to fenestration and installation of hand railing.

**APPEAL ALLOWED** (Delegated Decision)

**C) BH2017/02505 - 132 UPPER LEWES ROAD, BRIGHTON, BN2 3FD**

Appeal against refusal to grant planning permission for proposed first floor extension.

**APPEAL ALLOWED** (Delegated Decision)

**D) BH2017/02190 - 43 LENHAM AVENUE, SALTDEAN, BRIGHTON, BN2 8AG**

Appeal against non-determination of the proposal to demolish the existing dwelling and erect a pair of semi-detached dwellings.

**APPEAL DISMISSED** (Non-Determination)

**E) BH2017/03577 - 33 Green Ridge, Brighton, BN1 5LT**

Appeal against the non-determination of the proposal for first floor extension within roof and ground floor extensions to the front and rear.

**APPEAL ALLOWED** (Non-Determination)

**F) BH2017/01951 - BERKELEY COURT, DERBY COURT AND WARWICK COURT, 47, 49 AND 51 DAVIGDOR ROAD, HOVE, BN3 1RA**

Appeal against the non-determination of the proposal for erection of an additional storey on each of Berkeley Court, Derby Court and Warwick Court to provide a total of three additional flats.

**APPEAL DISMISSED** (Non-Determination)





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## Appeal Decision

Inquiry opened on 24 April 2018

Site visit made on 27 April 2018

**by Lesley Coffey BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26 June 2018**

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**Appeal Ref: APP/Q1445/W/17/3177606**

**Land South of Ovingdean Road, Brighton BN2 7AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Lightwood Strategic against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/05530, dated 30 September 2016, was refused by notice dated 23 May 2017.
  - The development proposed is the construction of 45 one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space and strategic landscaping. New vehicular access from Ovingdean Road and junction improvements.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of 45 one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space and strategic landscaping. New vehicular access from Ovingdean Road and junction improvements at Land South of Ovingdean Road, Brighton BN2 7AA in accordance with the terms of the application, Ref BH2016/05530, dated 30 September 2016, subject to the conditions in the attached schedule.

### Application for costs

2. At the Inquiry an application for costs was made by Lightwood Strategic against Brighton & Hove City Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The inquiry sat for 4 days from 24 April 2018 and closed on 27 April. There was an accompanied site visit on 27 April.
4. The application is made in outline with access, scale, layout and landscaping to be determined. Appearance is a reserved matter for future determination.
5. The decision notice includes four reasons for refusal. Following legal advice, at a meeting on 7 February 2018, the Council decided to withdraw the second and third reasons for refusal. The second reason for refusal concerned the effect of the proposal on the gap between the villages of Ovingdean and Rottingdean, and the adverse effect on the setting of the Ovingdean and Rottingdean

Conservation Areas. The third reason for refusal concerned the effect of the proposal on the Rottingdean Air Quality Management Area. The Council considered that there would still be harm in terms of the impact of the proposal on the character and appearance of the area, and the ecology and biodiversity of the appeal site, but it balanced these harms against the benefits of the proposal and decided not to defend the appeal.

6. The Deans Preservation Group (DPG) was granted Rule 6 party status, but chose not to defend either the second or the third reasons for refusal.
7. The appellant submitted a signed Agreement under section 106 of the Town and Country Planning Act 1990 (as amended). This covenants to make financial contributions towards education, recreation, an Artistic Component and a Construction Training and Employment Strategy. It also covenants to provide affordable housing, a Travel Plan, a Walkways Agreement and an Open Space Management Scheme. I return to this matter below.
8. Following the close of the inquiry, the Appellant amended the soft landscaping plans in respect of the species of some of the trees proposed. On the basis of these revisions the Council confirmed it was satisfied with the soft landscaping proposals, and further details in relation to this matter would not be required. I have taken the submitted plans into account in reaching my decision and consider that no interests would be prejudiced from my doing so.

### **Main Issues**

9. I consider the main issues to be:
  - The effect of the proposal on the landscape character and appearance of the surrounding area, including the setting of the South Downs National Park (SDNP);
  - The effect of the proposal on the biodiversity and ecology of the appeal site; and
  - The overall planning balance having regard to the Council's position in respect of its five-year supply of housing land, and other material considerations.

### **Reasons**

#### *Background*

10. A previous appeal in respect of the site was dismissed in March 2016<sup>1</sup>. The proposal differed from the current scheme in that it was for 85 dwellings and extended much closer to the eastern boundary with Falmer Road. The Inspector found that the proposal would not give rise to significant harm to biodiversity, air quality, local traffic conditions, or the setting of the SDNP. Notwithstanding this, he found that due to the excessive extent of the built form, the proposal would appear as a discordant intrusion into the immediate balanced relationship of open land to built form, and would thereby be seriously harmful to the character and appearance of the appeal site and its surroundings. He concluded that this harm significantly outweighed the benefits of the proposal.

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<sup>1</sup> APP/Q1445/W/15/3130514



11. Whilst the previous decision is a material consideration in respect of this appeal, there are significant differences in terms of the number of dwellings proposed and the extent of the developed area. Additional evidence was also submitted in relation to ecological and landscape matters, and I have taken this into account in reaching my decision.

#### *Development Plan Context*

12. The development plan includes the saved policies of the Brighton and Hove Local Plan (adopted 2005), the City Plan Part One and the Adopted Policies Map (adopted March 2016). The City Plan Part One contains the over-arching planning policies and strategic allocations for the area. The emerging City Plan Part Two will contain the remaining detailed allocations and development management policies. However, it is still at an early stage and the weight to be afforded to the policies and allocations within it is limited.
13. The City Plan Part One identifies a number of Urban Fringe Sites, including the appeal site (part of Site 42). These are areas of land that lie between the defined built-up urban area boundary and the boundary of the SDNP. Policy SA4 sets out a number of objectives in relation to the Urban Fringe. These include the protection and enhancement of its wider landscape role and the setting of the SDNP. It states that development within the urban fringe will not be permitted except where a site has been allocated in a development plan document, or the countryside location can be justified. It requires such proposals to have regard to the downland setting of the City and to minimise and appropriately mitigate any adverse impacts of development. It also states that the May 2014 Urban Fringe Assessment (UFA) will be a material consideration in the determination of applications for residential development within the urban fringe that come forward prior to the adoption of Part Two of the City Plan. The 2014 UFA identifies the site as a potential location for development and formed part of the evidence base for the City Plan Part One.
14. The Brighton and Hove: Further Assessment of Urban Fringe Sites 2015 - Landscape and Ecological Assessments provides an update to the 2014 Assessment and is intended to inform the preparation of the City Plan Part Two. It includes more detailed landscape and ecological assessments. It concludes that although it would be challenging to avoid significant landscape and ecological impacts in the potential development area, housing could be delivered with reduced impacts assuming careful design and that robust mitigation measures are developed and implemented.
15. The previous Inspector considered that the UFA gave significant endorsement to the principle of residential development. Whilst the UFA does not allocate the site for housing, it does however provide a strong indication that, despite the landscape and ecological constraints, a level of housing could be accommodated on the appeal site. It is a material consideration in respect of this appeal and I afford it significant weight.

#### ***Character and Appearance***

16. The appeal site is located on the north-east edge of Ovingdean, a short distance north of Rottingdean and south of Woodingdean. It comprises a field about 3.72 hectares in area and is currently used for the keeping and grazing of horses. The site slopes from east to west and is a visible feature from both Ovingdean Road and Falmer Road.

17. The immediately surrounding area is a combination of housing to the north and west, and predominantly open land to the south and east. The site is bounded to the west by The Vale, which serves dwellings situated within large gardens that extend up the wooded hillside to the rear. The residential development within Ovingdean Road and Ovingdean Close lies to the north of the site. Longhill School and playing fields adjoin the southern boundary. The open land to the north and to the east forms part of the SDNP.
18. The proposed dwellings would be located towards the western part of the site and would occupy an area of about 1.68 hectares. The remainder of the site would be retained for horse grazing and informal open space. A new pedestrian footpath would link the southern part of the proposed development with Falmer Road. The dwellings would comprise detached and semi-detached properties. It is intended that they would be 2 storeys high and would follow the contours of the site. Access to the site would be from Ovingdean Road.
19. The appeal site is not subject to any landscape designations. At the inquiry DPG acknowledged that it had mistakenly believed that the site had previously formed part of the Area of Outstanding Natural Beauty(AONB).
20. The landscape character of the locality has been assessed at national, district, and local level. It comes within the South Downs National Character Area. This is an extensive area extending from Winchester in the west to Eastbourne in the east. The appeal site lies within the Eastern Open Downs sub-area. Due to its extent the characteristics of this area are varied. These include open arable fields with an absence of woodland and hedgerow boundaries, semi-natural chalk grasslands, and roads and villages largely concentrated within the river valleys. These features are evident in the surrounding area.
21. At district level the area comes within the A2 Adur to Ouse Open Downs as defined by the South Downs Integrated Landscape Character Assessment. The characteristics of this landscape area include large scale fields with open boundaries, unimproved chalk grassland, scrub and woodland on the steeper slopes and dry valleys with rounded coombs. It notes that the location of Brighton on the edge of this area means that this character area has been influenced, on its edges, by urban fringe features such as road cuttings and traffic.
22. DPG considers the appeal site and its surroundings to be highly representative of the A2 Character type. I acknowledge that it includes some characteristics of this typology such as the large scale fields and unimproved chalk grassland, as well as access to public rights of way, however, other characteristics are less evident.
23. More locally, the Brighton and Hove Urban Character Study Area characterises Ovingdean as a downland settlement. The dominant landscape elements of these areas include low rise historic developments nestled along the valley floors and low rise residential suburbs, farming characterised by large scale fields with very few and degraded hedgerows, species-rich chalk grassland and pockets of deciduous woodland and limited public access in the form of roads, tracks and footpaths.
24. The landscape in the vicinity of the appeal site exhibits many of these characteristics, with the older development generally located towards the valley floor, and the more recent suburban development extending up the sides of the

valley. The large scale fields are consistent with the surrounding SDNP. The wooded backdrop to The Vale and species-rich chalkland are also characteristic of the locality. The detailed assessment of Ovingdean predominantly focusses on the built environment which it divides into 3 distinct areas, Old Village, Longhill and The Vale. The areas closest to the appeal site are characterised as very low density suburban style housing. Although in general the buildings are not of any significant architectural merit and lack any unifying features, the generally spacious setting and wider landscape, including the SDNP combine to provide an attractive environment. Overall, I consider that the appeal site, together with its surroundings, has an urban fringe character.

### *Valued Landscape*

25. DPG suggests that the site forms part of a valued landscape for the purposes of paragraph 109 of the National Planning Policy Framework (the Framework). This matter was considered at the time of the previous appeal. The Inspector concluded that the appeal site itself did not have any particular features or quality that would place it in the category of being a valued landscape in the sense intended by the Framework.
26. DPG relies on the criteria at Box 5.1 of Guidelines for Landscape and Visual Impact Assessment, Third Edition. Although this does not define a valued landscape for the purposes of the Framework, it nevertheless provides a useful starting point. DPG considers that the appeal site has high scenic quality, relative wildness, and tranquillity along The Vale. In addition, it is submitted that it includes rare chalk downland habitats and is intact in that it retains its sloping topography.
27. I disagree that the site has a high scenic quality comparable to the SDNP. The SDNP is characterised by the open downland landscape, whereas the appeal site is contained by the surrounding residential development, the wooded hillside, and Falmer Road. This view is reinforced by the fact that the site was considered at the public inquiry in relation to the designation of the SDNP, and it was concluded that it should not be included within the SDNP.
28. When assessing what constitutes a valued landscape I consider it important to examine the value of the wider setting and the contribution which the appeal site makes to that setting. On behalf of DPG, Ms Noel suggested that the site together with Happy Valley formed part of a valued landscape. However, the surrounding landscape as a whole includes the residential settlements of Ovingdean, Woodingdean and Rottingdean, all of which are visible from the appeal site.
29. There is a perception of tranquillity along The Vale, although background traffic noise is discernible along its length. Ms Noel stated that The Vale was used by school children, many of whom were dropped off at the junction with Ovingdean Road. Therefore, whilst at some times The Vale is a quiet and pleasant environment it would seem that at others it is less so. I accept that there is a sense of tranquillity when walking within the SDNP, but the area as a whole is crossed by roads and includes a considerable number of dwellings. In addition, the Happy Valley includes a recreation ground and car park, whilst Falmer Road, which adjoins the appeal site carries a frequent flow of traffic. Therefore, I do not consider that the landscape as a whole, or the appeal site, benefits from tranquillity.

30. The appeal site is a grazed field and although it is open in character it does not benefit from wildness. Whilst this quality could be attributed to parts of the SDNP, it does not reflect the landscape character of the appeal site or the surrounding area.
31. There are some valued elements within the landscape, but nothing to lift it above the ordinary. In reaching this conclusion I have taken account of the ecological interest on the site, and whilst this may have consequences for the biodiversity of the site, it does not in my view impact on its character or appearance. I conclude that the appeal site does not form an integral part of any wider valued landscape for the purposes of paragraph 109 of the Framework.

#### *Setting of SDNP*

32. The appeal site is situated adjacent to the SDNP. Policy SA5 of the City Plan states that proposals within the setting of the Park must have regard to the impact on it, including the purposes of the SDNP and the ability of the SDNP Authority to deliver its duty. This reflects the duty under Section 11A(2) of the National Parks and Access to the Countryside Act 1949. The purposes of the Park are to conserve and enhance the natural beauty, wildlife and cultural heritage, and promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public.
33. The effect of the proposal on the setting of the SDNP was considered at the time of the previous appeal. The Inspector noted that a number of the surrounding settlements were enclosed by the wider boundaries of the Park, and that it was not unusual for the boundaries of the SDNP to extend up to residential development. He concluded that having regard to the low level of the site relative to the higher ground within the Park that whilst there would be some inter-visibility between the two, the appeal scheme would be more widely viewed in the context of existing settlements of Ovingdean and Woodingdean and would reflect a similar relationship to the SDNP to that which exists elsewhere.
34. This appeal is for a much reduced number of dwellings and they would occupy a reduced area of the appeal site relative to the previous scheme. Having regard to the evidence submitted to this inquiry, I agree with the conclusions of the previous Inspector, and I am satisfied that the proposal would not be harmful to the setting of the SDNP or conflict with policy SA5.

#### *Happy Valley*

35. The appeal site forms part of a dry valley known as the Happy Valley. This extends from the western edge of Woodingdean to Mount Pleasant and to the Rottingdean settlement area. Although the Happy Valley landform remains largely intact it is subject to a number of urban influences. These include the car park and recreational facilities to the north of the appeal site and the residential development at Ovingdean Road and Ovingdean Close which extend along part of the valley.
36. The appeal site is situated within the valley at a point where the presence and perception of the settlement fringes is commonplace, with parts of Woodingdean, Ovingdean and Rottingdean all visible to some extent. The appeal proposal would occupy the lower ground within the site and the valley,

as such it would be consistent with the existing settlement boundaries and would not undermine the integrity of the valley landscape as a whole.

### *Impact on Character*

37. The character of the site would change from equestrian grazing to mixed use residential and grazing. The proposed dwellings would occupy the lower part of the site but would maintain the urban fringe relationship with surrounding countryside in a similar manner to the properties at The Vale and Ovingdean Road.
38. Although a large proportion of the site would remain open, part of it would be more formal in character reflecting the residential development to the western part of the site.
39. Whilst there may be some additional noise associated with future residents, there is no reason to suppose that this would be excessive, or cause disturbance to existing residents within the area. The appeal site is not situated in a remote or isolated area and there would be no significant effect on tranquillity.

### *Visual Impact*

40. The appellant's Landscape and Visual Impact Assessment included several viewpoints located some distance from the east and west of the appeal site. These were intended to reflect the views from Public Rights of Way within the SDNP. DPG suggested that the most significant views would be those closest to the appeal site, including the views from footpaths in the vicinity of Mount Pleasant which lies within the SDNP. Although I viewed the site from a number of other locations, I agree with DPG that these would be the most significant views.
41. From Mount Pleasant the most extensive views of the site would be from the upper footpath. In these views the proposed dwellings would be noticeable, but would be seen in the context of Longhill High School to the south of the site and Woodingdean. In the context of these views the proposal would be seen as a minor extension to the existing suburban development. Therefore, whilst the proposed dwellings would be noticeable, any harm would be very limited. In other views from Mount Pleasant it would be largely the eastern part of the site that would be visible. It is intended that this part of the site would be used for horse paddocks, consequently many of these views would not alter to a significant extent.
42. The proposed dwellings would be visible from The Vale. The views from the northern part of The Vale would be filtered by the existing trees on land known as The Paddocks. Further to the south of the Vale, where the screening is provided by hedgerows, the proposal would occupy the foreground, but would not obscure views of the SDNP. Many of these views would be of short duration as pedestrians pass the site.
43. Access to the site would be from Ovingdean Road. The proposed dwellings would be visible from the access, but they would be seen in the context of the suburban development on the opposite side of the road and to the north. The existing vegetation to this boundary would provide some limited screening.

The soft landscape proposals include additional planting between the proposed dwellings and Falmer Road. This would filter views of the proposed dwellings.

44. Due to the existing vegetation to the south, views of the site from Falmer Road are largely confined to the part of the footpath and carriageway adjacent to the boundary with the site. These views would be across the open paddocks towards the proposed dwellings which would occupy lower land.
45. Overall, most views of the proposal would be very localised, and although the scheme would alter the immediate setting of the site and its surroundings, it would not alter the character of the area overall. I therefore conclude that the proposal would not harm the landscape character and appearance of the surrounding area, or the setting of the SDNP. It would therefore not conflict with policy SA4 of the City Plan Part One which amongst other matters, seeks to protect the landscape role of the urban fringe and the setting of the SDNP.

### ***Biodiversity and Ecology***

46. Policy CP10 of the City Plan Part One requires development proposals to conserve existing biodiversity, and protect it from the negative indirect effects of development, including noise and light pollution; provide net gains for biodiversity wherever possible; and to contribute positively to ecosystem services, by minimising any negative impacts. It also states that the Council will set criteria-based policies against which development proposals affecting designated sites, protected species, and biodiversity in the wider environment will be judged. These policies will form part of the City Plan Part Two.
47. Policy QD18 of the Brighton and Hove Local Plan 2005 states that where a proposal could directly or indirectly affect a species of animal or plant, or its habitat protected under national legislation, European legislation or categorised as 'a declining breeder', 'endangered', 'extinct', 'rare' or 'vulnerable' in the British 'Red Data' books, measures will be required to avoid any harmful impact of a proposed development on such species and their habitats. It confirms that permission will not be granted for any development that would be liable to cause demonstrable harm to such species and their habitats.
48. The appeal site is not subject to any statutory or non-statutory nature conservation designations, but Sites of Nature Conservation Importance are located nearby. DPG states that the site meets the criteria for a Local Wildlife Site, and if it remains undeveloped is likely to be designated as such as part of the City Plan Part Two due to the Red Star Thistle (RST) population on the site. In support of this view DPG refers to correspondence with Council Officers and the County Ecologist in which it is stated that the site meets the criteria for designation. Whether the site is designated as a Local Wildlife Site will be a matter for the City Plan Part Two Examination, as will the criteria-based policies for the protection of such sites. Consequently, even if the site is designated as a Local Wildlife Site it does not necessarily follow that all development on the site would be unacceptable.
49. Section 40(1) of the Natural Environment and Rural Communities Act 2006, requires a public authority in exercising its functions to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. The Secretary of State has published lists under section 41(1) of living organisms and types of habitat which, in the Secretary of State's opinion, are of principal importance for the purpose of conserving

diversity. It is common ground that a number of such entries have been identified within the application site, including the Hornet Robberfly and the RST.

50. As part of the proposals the appellant submitted a Draft Management Plan and a Red Star Thistle (RST) Mitigation Strategy. The Management Plan proposes that the grassland in the east of the appeal site would be retained, and the majority would continue to be grazed by horses at a stocking density equivalent to that which occurs at present.

#### *Hornet Robberfly*

51. The Hornet Robberfly is a 'species of principal importance for the purpose of conserving biodiversity' under section 41 (England) of the Natural Environment and Rural Communities Act (2006). The Brighton & Hove Local Biodiversity Action Plan (2012) (LBAP) identifies it as a species that has specialist needs and includes an action plan for it.
52. The LBAP notes that although there are no known records for the species outside of its core Racehill Valley habitat, it may occur in pony paddocks anywhere around the urban fringe of Brighton and Hove. The LBAP aims to strengthen the population by increasing the availability of suitable breeding sites across the City. It sets out a range of measures to achieve this, including the management and awareness of the needs of the species.
53. The Hornet Robberfly feeds on a range of insects including grasshoppers, beetles, and flies. Adults range over distances of 500m or more from their breeding sites. Pasture management, including overgrazing, can affect the success of the Hornet Robberfly which uses drying, undisturbed dung mounds for egg laying and perching. It is thought that the larvae of the dung beetle are an important source of food for the larvae and adult flies. Routine treatment of the livestock with persistent parasite treatments (ivermectin wormers) can restrict the dung beetle larvae.
54. The appeal site was visited 14 times between June 2014 and August 2016 as part of the invertebrate survey submitted by DPG. The Hornet Robberfly was recorded on two occasions in August 2014 and on one occasion in August 2016. In the latter case there was one adult on the site. Having regard to the number and timing of surveys, I do not consider that the submitted evidence indicates that the appeal site supports any significant population of the Hornet Robberfly.
55. I understand that the horses that currently graze the site are not treated with ivermectin wormers and this contributes to the suitability of the site for the Hornet Robberfly. However there is no certainty that the site would continue to be managed in the same manner in the future. The proposal seeks to retain grazing on the eastern part of the site and the Management Plan would take account of the requirements of the Hornet Robberfly, ensuring some horse dung is left within the pasture between early July and mid-September to coincide with emergence and egg-laying times of the Hornet Robberfly. The County Ecologist is satisfied that this would ensure that there is no loss of habitat continuity between the appeal site and nearby horse grazing pasture for this species.

56. Having regard to the Mitigation Strategy, including the proposed Management Plan, I am satisfied that the proposal would not have a significant effect on the Hornet Robberfly.

*Red Star Thistle*

57. The plant species on the site include the RST, a critically endangered species in the Vascular Plant Red Data List for Great Britain 2006. It is considered to be facing an extremely high risk of extinction in the wild.

58. The surveys submitted by the parties differ as to the distribution of the RST across the site, but it is agreed that the majority of it is found in patches to the west of the track that crosses the site. DPG disputed the distribution of the RST as shown on the appellant's survey. However, the appellant submitted evidence to show that the surveys submitted by, and on behalf of, DPG show the access track in the incorrect position. Once this is corrected the discrepancy between the various surveys is reduced. Moreover, both parties acknowledge that the distribution of RST varies over time. I therefore have no reason to doubt the distribution shown by either party.

59. The appellant acknowledges that as a consequence of the proposal almost 70% of the existing RST would be lost from the site. Whilst 27% would be retained within the horse-grazed pasture, a further 5% would be retained in the north-western corner of the site. The proposed development would therefore result in a reduced population of RST and a smaller area in which to disperse.

60. The submitted RST Mitigation Strategy and Management Plan for the site adopts a varied approach. It is proposed to preserve the RST on the site, both in situ and through transplanting young plants and seeds within the turfs to the eastern part of the site. In addition, it seeks to increase the number of sites that support RST thereby expanding the existing population of RST within the locality, as well as the collection and potential future sowing of seeds.

61. The heavy horse grazing that currently occurs at the site is essential to the maintenance of the RST, in that it exposes large areas of bare ground and provides the ideal conditions for the germination and establishment of the plants. The mitigation strategy proposes to continue horse grazing on the eastern part of the site at a similar density to that which occurs at present.

62. DPG is critical of the Mitigation Strategy for a number of reasons. It suggests that the concentration of the RST towards the western part the site is due to different site conditions, in particular the depth of the topsoil, which it considers could impact on the PH, drainage rates and other properties of the soil. For this reason it considers that the translocation of the RST to a part of the site where the soil is deeper is unlikely to be successful.

63. The soil survey on behalf of DPG did not indicate any difference in the type of soil or its PH. The essential differences were its depth and the amount of vegetation present. The reason why RST is less prolific on the western part of the site is unclear. However, it is not entirely absent from this part of the site which is less disturbed by comparison with the land adjacent to the track and the stables. Although the RST is rare within the UK, it is found in many other countries worldwide. In some locations it is considered to be a noxious weed. There is evidence that the RST depends on disturbed ground and lack of competition from other plants. Evidence submitted by the appellant indicates



that it can establish on most soil types provided it is not in shade. There is insufficient evidence to persuade me that the depth of the soil is the critical factor in the distribution of the RST.

64. The translocation of the RST to new sites outside of the appeal site would satisfy one of the aims of the LBAP, namely to establish new populations of the plant at sites where it is not currently present.
65. The appellant has provided examples of where translocation using turfs has been successful. These examples generally relate to species-rich grassland rather than one specific species. The DPG states that there are no precedents for translocation of single species turfs and no trials have been undertaken to establish whether it would be successful. DPG submitted a letter from the Collections Co-ordinator of the Millennium Seed Bank who states that they were unaware of any occasion when RST has been successfully translocated to any site. However, this does not indicate that translocation would be unsuccessful, but simply that the Collections Co-ordinator is unaware of any examples. Equally, there is no substantive evidence to indicate that translocation would be unsuccessful in the case of the RST.
66. It is common ground that the seeds are short lived and can only survive for about three years. I agree with DPG that the collection and storage of seed would be unlikely to provide adequate mitigation in itself. Nonetheless, it could be useful as part of the overall mitigation strategy and could also further the objectives of the LBAP in terms of improving the understanding of the importance and management needs of the plant.
67. Whilst the existing grazing patterns are clearly beneficial to the RST, there is no management plan in place to ensure that the existing pattern of grazing would persist. Should the existing grazing regime be relaxed this is likely to result in the loss of RST from the site. Moreover, future occupants of the site could choose to clear and re-seed it to provide improved grazing. Whilst there is no evidence to suggest that if the appeal scheme were dismissed there would be a change of occupant, or the manner in which the site is managed, but it remains a possibility at some point in the future.
68. The appeal scheme would preserve the RST on the site both in situ and through translocation. Accordingly, the Management Plan would help to ensure the presence of the RST on the site in the long-term. Taken together with the translocation of the RST to other sites, and the collection of seed, I consider that the mitigation proposals represent a positive response to the LBAP objectives in relation to the RST. Whilst it is likely that there would be a reduction in the population of the RST on the appeal site, given that smaller populations of this species are able to persist in the local area, and management through horse grazing would continue, I am satisfied that RST would continue to grow on the site should the appeal be allowed. Although the extent of the RST on the site would be reduced, the proposal would make a positive contribution to the long-term survival of the RST.

#### *Grassland Habitat*

69. It is common ground between the parties that the appeal site supports good botanical and invertebrate diversity. The Arbeco survey, submitted on behalf of DPG, categorises it as Priority Habitat Unimproved Lowland Meadow within National Vegetation Classification (NVC) type MG5b. This differs from the view

- of DPG at the time of the previous appeal where it maintained that the site comprised lowland calcareous grassland. DPG's previous objection was informed by a number of surveys and other information, including a survey by Mr Tony Spiers, a botanist.
70. The appellant does not dispute the results of the Arbeco survey but disagrees with the conclusions of the report. On behalf of the appellant Dr Simpson suggests that the grassland on the appeal site falls between various classifications, and that the true character of the grassland is disguised, at least in part, by overgrazing and/or nutrient enrichment.
71. He submits that the similarity coefficients within the Arbeco survey indicate a 'poor fit' and that several communities are more or less equally matched. The survey divided the site into 9 paddocks. Within these MG5b had a coefficient of between 42.6 and 50. Based on the goodness of fit ratios this would indicate a rating of either 'very poor' or 'poor'. The evidence suggests that with the exception of paddocks C3 and C4, all of the paddocks had grassland communities with a better fit, however, none of the grassland communities present had a coefficient greater than 52.9. Therefore all of the habitats on the appeal site would come within the 'poor' to 'very poor' goodness of fit ratio.
72. The submitted evidence has also been reviewed by the County Ecologist. She notes the dispute over the exact nature of the grassland but states that it is species-rich and shows good botanical and invertebrate interest. She advised that the Management Plan should provide for a suitable conservation grazing regime to restore the grassland to a Priority Habitat and maintain suitable conditions for the notable plant and invertebrate species on site.
73. The site has been extensively surveyed, both in the context of this appeal and the previous appeal, as well as the emerging City Plan Part Two. It is evident that there is no consensus as to the grassland type. The County Ecologist reviewed the submitted evidence, including the Arbeco Report, but did not identify the appeal site as falling within the MG5b classification. On the basis of the evidence submitted to the inquiry, I share the appellant's view that the site is a poor match for any specific vegetation type and is not Priority Habitat.
74. Whilst I note that the Sussex Biodiversity Records Centre has re-mapped the site to show lowland meadow, the weight to be afforded to this is limited in that the re-mapping was based on Ms Thompson's report for DPG.
75. Ms Thompson confirmed that the area with the greatest botanical interest is the eastern part of the site. This area would be undeveloped and the proposed mitigation strategy would maintain a range of habitats and conditions that would continue to support the species recorded on the site.
76. The site is not a Priority Habitat at the present time, the mitigation strategy would maintain the grassland which would continue to be grazed by horses, based on a conservation grazing regime. The strategy also includes the enhancement of an off-site area of grassland to compensate for the loss of the grassland in the west of the site.

### *Wildlife Corridor*

77. Local residents consider the site to be part of a wildlife corridor. They state that birds and butterflies recorded on the site are also found at Beacon Hill Nature Reserve.
78. Surveys show that the site is used by foraging and commuting bats, particularly along the vegetated boundaries. These boundaries would be retained and a sensitive lighting scheme is proposed to avoid the illumination of these areas. In addition, a dark corridor is proposed along the southern boundary between the eastern edge of the off-site woodland and the eastern site boundary. The Biodiversity Construction Environmental Management Plan will include measures to avoid illumination of boundary hedgerows and vegetation during the construction phase.
79. Mitigation measures include a band of tree and shrub planting along the western edge of the pasture. This would provide a new potential commuting route through the site increasing connectivity between the playing fields to the south and areas to the north. Overall, whilst there would be some reduction in the extent of the foraging area on the site, the landscaping proposal would provide improved foraging areas and roosting opportunities would be provided by the proposed bat boxes. Therefore the proposal would be likely to have a beneficial effect on the use of the site as a commuting corridor by bats.
80. The site is used by badgers for foraging, particularly the rough grassland in the east of the site, with further signs of activity in localised areas of rough grassland and damper soil elsewhere in the site. The proposal would be likely to result in a reduction in foraging habitat within the immediate vicinity of the off-site outlier sett, although suitable foraging habitat would be retained in the east of the site, where the majority of the badger activity was recorded. Within the site, loss of grassland would be compensated to some extent through the incorporation of fruit and nut yielding species within the landscaping scheme. There is no substantive evidence to indicate that the proposal would have an adverse effect on the badger population in the general locality of the appeal site.
81. Evidence submitted by local residents indicates that the site is used by a variety of birds including swallows, swifts and house martins. The site provides some nesting potential and good foraging opportunities for birds. The proposal would result in the loss of areas of grassland. Balanced against this, the proposed tree and shrub planting would, in the long-term, increase nesting opportunities within the site for a range of bird species. Bird species associated with gardens would be likely to continue to use the site post-development, including the gardens and amenity area. The proposal would also provide additional nesting opportunities through the installation of bird boxes to attract house martin, swift, swallow and starling. Overall I consider that, subject to appropriate mitigation, the proposal would not have a significant effect on the local bird population.
82. Low populations of slow-worm and common lizard were recorded within the site. Suitable habitat for reptiles within the site is largely limited to the rough grassland around the edges of the pasture, narrow strips between paddocks, and rested areas within the paddocks.

83. The proposed development of the site would result in the loss of about 0.2ha of permanent suitable reptile habitat. This would be mitigated by increasing the width of the retained rough grassland habitat, and through management of the grassland around the new western and southern edges of the horse-grazed pasture in the east of the site. Rested areas of the retained horse-grazed pasture would continue to provide larger areas for temporary use by reptiles.
84. Mitigation measures include the creation of holes within the fences between proposed plots 7 to 12, and 25 to 30 where they abut the southern and western boundaries to provide dispersal routes for reptiles, including slow-worms, and would thereby maintain connectivity throughout the site. The proposal also includes the construction of hibernacula to provide places of shelter and protection from cats and reduce the risk of predation. Therefore, in the light of the proposed mitigation scheme the proposal would be unlikely to have a significant effect on reptiles on the site.
85. I appreciate that the appeal site may serve an important function as part of a wildlife corridor, and that the Framework seeks to minimise the effect of development on such features. Having regard to the submitted evidence and the proposed mitigation features, I consider that the proposal would not have an adverse effect on the wildlife corridor. However, these mitigation features and the enhancements proposed should be secured by an appropriate condition.
86. I have found above that the proposal would not have an adverse impact on the Hornet Robberfly or the use of the site as a wildlife corridor. However, there would be a loss of species-rich grassland and a reduction in the extent of the habitat available to the invertebrates recorded on the appeal site. There would also be a reduction in the extent of the RST on the appeal site. The mitigation strategy seeks to minimise the extent of these harms in accordance with policy CP10 and paragraph 118 of the Framework. The proposal would also provide benefits in terms of the translocation of the RST to other locations in pursuance of LBAP objectives and enhancement measures such as the provision of bird and bat boxes, and the landscape proposals. Notwithstanding the Mitigation Strategy and benefits of the proposal in terms of ecology and biodiversity, overall the proposal would give rise to some limited harm to biodiversity and ecology contrary to policy CP10 of the City Plan Part One and Local Plan policy QD18.

### ***Five Year Housing Land Supply***

87. Policy CP1 of the City Plan Part One aims to deliver at least 13,200 dwellings over the period from 2010-2030. This is equivalent to an annualised target of 660 dwellings per annum (dpa). Annual completions in the first four years of the plan period (2010 – 2014) were below this figure giving rise to a shortfall of 1,238 dwellings. At the time at which the plan was adopted the housing trajectory anticipated that annual completions would almost meet the annualised target from 2014 to 2019 (655 dpa) and would then exceed it for the five years through to 2024 (856 dpa). It was then expected that the delivery rate would fall to 712 dpa. This trajectory was endorsed by the City Plan Examining Inspector.
88. Although there was no shortfall relative to the trajectory at the time of adoption, there is a cumulative shortfall of 358 dwellings for the period 2014/15 to 2016/17. Based on the phased delivery shown in the City Plan,

- when the five year requirement is adjusted to take account of under-delivery and a 5% buffer is added, the five year requirement equates to 4,448 dwellings. The trajectory has been amended to require 863 dpa for the period 2017/18 up to 2026/27.
89. The appellant considers that the Council has a record of persistent under-delivery and therefore the buffer should be increased from 5% to 20%. The City Plan Inspector noted that a good rate of housing delivery was achieved between the mid-1990s through to 2007. She considered that the lower rate of housing delivery since then was largely related to poor market conditions, and did not consider that the Council had a record of persistent under-delivery. She concluded that a 5% buffer was appropriate.
90. Since her report was published in February 2016, there have been two further years of completions. There was a small surplus in 2015/16 and a substantial shortfall in 2016/17. At the present time there is a shortfall of 358 dwellings against the trajectory. Although the shortfall for 2016/17 is considerable, on the basis of the evidence submitted to the inquiry, I am not convinced that the under-delivery in 2016/17 is such that it tips the balance towards a record of persistent under-delivery. I therefore conclude that the appropriate buffer is 5%.
91. I turn now to the housing land supply. The appellant submitted a correction to the supply figures within the Strategic Housing Land Availability Assessment (SHLAA). This removed 30 dwellings from the supply. Although the Council did not present housing land supply evidence to the inquiry, it confirmed that it did not dispute this correction. Based on the amended figures within the SHLAA the Council is able to demonstrate a five year housing land supply, but the position is very marginal with a surplus of just 4 dwellings. The appellant disputes the delivery on Sackville Trading Estate and Toads Hole Valley.
92. Only limited information in relation to these sites was submitted to the inquiry, moreover the SHLAA only provides anticipated delivery rates for five year periods, rather than annual projections.
93. Sackville Trading Estate is expected to deliver 550 dwellings over the plan period, with 200 dwellings delivered in the first five years. The SHLAA states that the scheme is still at pre-application stage, however, there is no indication as to when an application is likely to be submitted, or when it is anticipated that the first homes on the site will be delivered. The businesses that currently occupy the site are still trading. The site comes within the Hove Station Area development boundary and whilst it is possible that some dwellings will be delivered within the remainder of the five year period, the 200 dwellings indicated would appear to be overly ambitious. A planning application would need to be submitted and approved, a s106 completed and the leases of the existing traders terminated. Footnote 11 of the Framework states that to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing would be delivered on the site within five years, and in particular that development of the site is viable. It is evident that the site is not available now and on the basis of the limited information available I conclude that it should be excluded from the five year housing land supply.
94. Toads Hole Valley is a strategic allocation within the City Plan Part One. It is intended that it will be developed for a mixed use scheme comprising a

minimum of 700 residential units, B1 employment space, a new secondary school, a multi-use community facility and ancillary supporting uses and that it would be an exemplar of sustainable development. The SHLAA indicates that the site would deliver 769 dwellings over the plan period, including 149 dwellings between 2017-2022. Planning permission was granted in March 2017 for 69 flats, but no application has been submitted for the remainder of the site. The appellant accepts that the 69 dwellings with planning permission would be delivered within the five year period, but is critical of the remaining 80 which do not have planning permission.

95. No evidence was submitted to suggest that the site is not available, and given that it is a strategic allocation it offers a suitable location for development. I consider that in the light of the complexity of the scheme that it could take almost two years for the determination of any forthcoming planning application, including the reserved matters and any s106 required. No evidence has been submitted to suggest that the scheme would not be viable. On balance, based on the limited information available, I consider that the site could deliver the 149 dwellings indicated by the SHLAA, although this would be an ambitious target.
96. The SHLAA includes several UFA sites where planning applications have not yet been submitted. Whilst it is probable that some of these sites will make a contribution towards housing land supply over the plan period, since they have not been subject to detailed scrutiny either as part of the plan making process, or in the context of an application, I have reservations as to the number of dwellings they are likely to deliver in the remainder of the five year period.
97. Overall, I conclude that the Council is unable to demonstrate a 5 year supply of housing land. Due to the limited information available the precise extent of the shortfall is unclear, but on the basis of the submitted evidence I conclude that the shortfall would be at least 200 dwellings, but is probably greater. DPG suggests that if the housing land supply is assessed against the 'Liverpool' method, where the shortfall is distributed across the remaining years of the plan period, the Council would be able to demonstrate a five year housing land supply. The Council's approach to its housing trajectory was subject to examination, and is a blend of the Sedgefield and Liverpool methodologies. On the basis of the evidence submitted to the inquiry I see no justification to depart from the agreed trajectory.

### **Other Matters**

#### *UFA*

98. The UFA indicates that about 1.4 hectares of the site could be developed and 45 dwellings could be provided on part of site 42. The line that defines the developable area essentially follows the track across the site. It excludes the school playing fields and the wooded area to the south west.
99. The proposed developed area extends marginally beyond the eastern boundary of the area identified within the UFA. However, the UFA is not a policy document; it was prepared to inform the site allocations within the emerging City Plan Part Two (Site Allocations and Development Management Policies). Nonetheless, as confirmed by policy CP10 of the City Plan Part One, it is a material consideration in relation to this appeal.

100. The 2015 UFA sought to advise whether the 2014 UFA sites as identified, and the specific potential development areas, were broadly correct, and whether the suggested density of development, and the potential mitigation measures which may be required to address potential landscape and ecological impacts would be appropriate.
101. The UFA is clear that proposals for the Study Areas should be informed by updated landscape and ecology inputs to inform design development, enabling the identification of impacts associated with specific schemes and the incorporation of appropriate mitigation proposals. Consequently the developable area boundary within the UFA aims to provide a broad indication of the area with development potential and does not delineate an inflexible boundary. Indeed, the developable area could decrease or increase dependent on the precise circumstances of an individual site and the nature of the proposal.
102. The majority of the proposed dwellings would be within the area of development indicated by the UFA. The dwellings in the southernmost corner of the appeal site would lie outside of this boundary, as would part of the dwellings near the access to the site. These would be screened by additional planting. Both would be separated from Falmer Road by a considerable distance, and would not have an unacceptable effect on the character of the area or surrounding landscape. Therefore the fact that some dwellings would extend beyond this boundary does not mean that the proposal is unacceptable in principle.
103. Figures submitted by DPG suggest that the appeal proposal would have a density of about 26.79 dpa. DPG is concerned that this is considerably higher than either the surrounding residential development, or the density suggested within the UFA (25dpa). Policy CP14 of the City Plan Part One requires residential development to be of a density that is appropriate to the character of the neighbourhood and states that it should be determined on a case by case basis. It states that in order to make full, efficient and sustainable use of the land available, new residential development is generally expected to achieve a minimum net density of 50 dwellings per hectare (dph). However, it recognises that lower densities may be necessary in order to reflect the positive characteristics of the neighbourhood in which it is located.
104. The very low density of the dwellings within The Vale is due to the wooded escarpment that forms the back gardens to these dwellings. The dwellings within The Vale have generous front gardens and wide plots. Although the other areas are also shown as very low density they do not appear to benefit from unusually large plot widths or gardens, and would seem to be typical of suburban/urban edge development. The proposed scheme would be consistent with these properties in terms of the form and size of dwellings proposed as well as the separation between them. Whilst the proposed gardens may be smaller than some within the locality, they would be larger than others. I consider that the layout and form of the proposed dwellings would be compatible with the character of the surrounding area. Therefore, although the density of the proposed scheme is marginally higher than that suggested by the UFA, it accords with the aim of policy CP14, in that it would be appropriate to the character of the neighbourhood and makes full, efficient and sustainable use of the land available.

105. I am aware that a planning appeal has recently been submitted in relation to the residential development of the adjoining site known as 'The Paddocks', which also forms part of Site 42. I am conscious of residents' concerns that should the appeal in relation to The Paddocks be allowed in addition to this appeal, the suggested density within the UFA for Site 42 would be exceeded to a greater extent. As explained above, I have found the appeal scheme to be acceptable in terms of its impact on the character and appearance of the surrounding area. The UFA seeks to provide broad guidance as to the scale of development acceptable, together with the constraints, on any given site, rather than provide an inflexible approach to the number of dwellings that an individual site could accommodate. Therefore the fact that an appeal has been submitted in respect of the development of an adjoining site does not alter my conclusions above.

*Air Quality and other considerations*

106. Councillor Miller considered that the increased traffic arising from the proposal would have an adverse effect on air quality within Rottingdean. He was critical of some of the assumptions and data used in the appellant's modelling.

107. The air quality assessment submitted by the appellant found that there would be a negligible increase in nitrogen dioxide concentrations (less than 0.5%) The modelling used a base date and traffic data provided by the Council. The assessment found the overall level of emissions would be lower than at the time of the 2013 base date. The Council's Air Quality Officer agrees with the results of the report and does not consider that the appeal scheme would lead to a deterioration in air quality. This matter was also considered at the time of the previous appeal, which was for a greater number of dwellings. The Inspector concluded that the proposed development would not be harmful to air quality.

108. Whilst I appreciate Councillor Miller's concerns in relation to air quality at Rottingdean High Street, no substantive evidence was submitted to indicate that the approach adopted by the Council's Air Quality Officer or the appellant is incorrect. I am therefore satisfied that the proposal would have a negligible effect on air quality within Rottingdean High Street.

109. It was suggested by Councillor Mears that the housing land supply figures relied upon by the appellant are not up-to-date and that there are a large number of dwellings within the planning pipeline, including a joint venture scheme for 1,000 homes. The figures relied upon by the appellant are based on the most recent SHLAA which was published in February 2018. and no alternative figures were submitted to the inquiry. Dwellings currently under construction would contribute to the housing completions for the current year, and the residual housing requirement would need to be adjusted to take account of any over or under-supply.

110. Residents suggest that the local GP surgeries do not have any additional capacity. I do not doubt that the existing surgeries are busy and under pressure. However, there is no evidence from the Health Authority to indicate that the appeal scheme would add unacceptably to the demands on health services in the area.



111. I am aware that Rottingdean Parish Council is in the process of preparing a Neighbourhood Plan. However, this is at a very early stage in the plan-making process and I am therefore unable to afford it any weight.
112. Councillor Butler was concerned that the supply of dwellings within Rottingdean had outstripped demand. She explained that the parish of Rottingdean had been subject to a 12% increase in dwellings, compared to 6% within Brighton and Hove as a whole. Moreover, only 158 dwellings were necessary to meet the housing needs of Rottingdean for the period up to 2030.
113. There is a considerable need for housing within Brighton and Hove as a whole. The housing requirement at policy CP1 of the City Plan Part One is a minimum figure, and only meets the need for about 44% of the Objectively Assessed Need for housing within Brighton and Hove. As noted by the City Plan Inspector, this is a very significant shortfall which has important implications for the social dimension of sustainable development. She also noted that the City is subject to significant constraints in finding land for new development. In these circumstances, whilst the need for additional housing within Rottingdean may not be as great as elsewhere in Brighton and Hove, there remains a considerable unmet need for housing overall, and the appeal proposal would make an important contribution towards this need.
114. Ovingdean Road provides a link with local bridleways and I understand that there are about 7 horse yards within the vicinity. The proposal would lead to an increase in traffic and there was concern that riders using Ovingdean Road would become more vulnerable in terms of road safety, particularly during the construction period. The Highway Authority is satisfied that subject to the proposed improvements the proposal would not have an adverse effect on highway safety, and I have no substantive evidence to the contrary.

### ***Planning Obligations***

115. The Community Infrastructure Levy (CIL) Regulation 122 provides that a planning obligation may only constitute a reason for granting planning permission if it is 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 to the development. This is echoed in paragraph 204 of the Framework.
116. The proposal would add to the demand for school places in the area. The contribution towards primary education would be spent at the closest primary schools to the appeal site, namely, Saltdean Primary School, Our Lady of Lourdes RC Primary School, St Margaret's C E Primary School, Rudyard Kipling Primary School and/or Woodingdean Primary School. It would be used to fund additional places and maintain parental choice. The secondary education contribution would be used at Longhill School which is located adjacent to the site. Although there is sufficient capacity at present, the growth in the number of primary aged children would add to the demand for places in the near future. I am satisfied that this planning obligation would meet the statutory tests.
117. The Council's Open Space Standards require a range of open spaces within a 10 -15 minute walk of the site. The proposal provides for open space within the site which is situated a short distance from the SDNP. On the basis of the evidence submitted to the inquiry there does not appear to be a justification for

a financial contribution towards open space. The proposal would however add to the pressure on indoor and outdoor sports facilities. Therefore the contribution would be necessary to make the development acceptable in planning terms and would also be directly related to the development. On balance, I consider that it is fairly and reasonably related in scale and kind to the development. The management and maintenance plan for the horse paddocks is necessary in order to safeguard the biodiversity of the grazing land and the management and maintenance of the open space. I am therefore satisfied that this obligation as a whole would meet the tests within the Framework.

118. The Agreement includes a contribution of £45,000 towards an Artistic component. The Council explained that the contribution would be used to provide public art. I accept that in some circumstances financial contributions toward public art in accordance with policy CP7 may be appropriate. The appeal site is an urban fringe site, and much of the site would be retained for grazing. I do not consider that public art in this location is necessary to make the development acceptable. I am therefore unable to take this obligation into account.
119. The proposal would provide affordable housing in accordance with policy CP20 of the City Plan Part One which requires 40% of on-site affordable housing provision on sites of 15 or more dwellings. The tenure, size and mix of dwellings has been agreed with the Council. There is a clearly identified need for affordable housing within Brighton and Hove and the proposed dwellings would assist with meeting that need, including the need for wheelchair accessible housing. I am therefore satisfied that the proposal meets the relevant tests.
120. Policy CP9 encourages the use of sustainable transport. Policy TR4 of the Local Plan requires travel plans for developments that are likely to have significant transport implications, including where a travel plan would alleviate local traffic or air quality problems, associated with traffic generated by the proposed development. A Travel Plan would encourage the use of sustainable transport in accordance with policy CP9 and would help to ensure that the proposal would not add to existing traffic problems in the locality. I am therefore satisfied that the requirement for a Travel Plan would meet the tests within the Framework.
121. The obligation in relation to a Construction Training and Employment Strategy requires a financial contribution towards a local employment scheme and the submission of an employment strategy to encourage the employment of local construction workers and education and training opportunities in construction, including a commitment to use 20% local employment during the construction phase. Policy CP2 states that the Council will positively and proactively encourage sustainable economic growth through a number of measures. These include securing apprenticeships, training and job opportunities for local residents through the Brighton & Hove Local Employment Scheme and the linked requirement for contributions from developers from major development schemes towards training.
122. I acknowledge that the provision of training and employment opportunities would be consistent with policy CP2 of the City Plan Part One. It would also be directly related to the development and would contribute towards the social

dimension of sustainability. However, in order to comply with the statutory tests at Regulation 122, the contribution must be necessary to make the development acceptable in planning terms and I am not persuaded that this is the case. The delivery of housing is addressed by policy CP1 and this does not include a requirement for a financial contribution towards a local employment scheme, or the use of local labour. Whilst policy CP2 encourages such provision, it is not a requirement of that policy. Therefore, I am not convinced that this obligation complies with the tests at regulation 122 and I am unable to take it into account.

123. I am satisfied that a Walkways Agreement is necessary in order to provide pedestrian permeability through the site, and would comply with the relevant tests.

### **Overall Planning Balance**

124. I have found above that the proposal would not harm the character and appearance of the surrounding landscape or the setting of the SDNP. It would however give rise to some harm to the ecology and biodiversity of the site, although having regard to the proposed mitigation strategies, the level of harm would be limited.

125. The proposal would deliver a number of benefits, in particular the delivery of affordable and market housing, together with wheelchair accessible housing. This would contribute to the social dimension of sustainability and would help to meet the needs of present and future generations for housing. This would be a significant benefit of the proposal, particularly in the light of the constraints on housing land within Brighton and Hove. The proposal would secure the future management of the site for the benefit of the RST and other species. It would provide enhanced habitats for some species through the landscape proposals and the provision of bat and bird boxes. In addition, for the reasons given above, the translocation of the RST to other locations would support the aims of the LBAP.

126. Having regard to the limited harm to biodiversity and ecology, and the considerable benefits of additional housing within an area where the supply of housing land is constrained, I find that the benefits of the proposal outweigh the limited harm. I therefore conclude that the proposal would comply with the development plan considered as a whole.

127. The Council is unable to demonstrate a five year supply of housing land and therefore paragraph 14 of the Framework is engaged. I conclude that the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole and therefore planning permission should be granted.

### **Conditions**

128. I have considered the suggested conditions in the light of discussions at the inquiry, the advice at paragraphs 203 and 206 of the Framework and the national Planning Practice Guidance (PPG). In some instances I have altered the wording in the interests of clarity or to avoid duplication.

129. Appearance is a reserved matter and therefore details need to be submitted for approval. A condition listing the approved plans is necessary in the interest of clarity. The Council considers a condition restricting the height of the

proposed dwellings to 10.2 metres is necessary to ensure that they are assimilated into their surroundings. It also suggests a further condition in relation to the existing and proposed ground levels of the dwellings. Whilst I appreciate the Council's desire to ensure that the proposed dwellings are compatible with their surroundings in terms of height, I consider that a condition in relation to any changes in level would provide greater accuracy and certainty in this matter, particularly given the sloping nature of the site. This needs to be a pre-commencement condition since it relates to the initial ground works. Therefore a condition restricting the height of the proposed dwellings is unnecessary.

130. Notwithstanding the previously submitted details, an Arboricultural Method Statement incorporating a Tree Protection Plan, and the provision of protective fencing, are necessary to safeguard the existing trees and hedges on and adjacent to the site in the interest of biodiversity and visual amenity. These need to be pre-commencement conditions in order to safeguard the trees and hedgerows on and adjacent to the appeal site.
131. As noted above, the soft landscaping proposals were subject to minor amendments following the close of the inquiry. The Council confirms that these amendments are acceptable, and therefore a condition requiring details of soft landscaping is not necessary. However, a condition requiring the implementation and maintenance of the soft landscape scheme is required in order to help assimilate the scheme into its environment. Details of hard landscaping, and boundary treatment, should be submitted for the same reason.
132. The provision of wheelchair accessible housing would be consistent with policies CP18 and CP19 of the City Plan Part One and HO13 of the Local Plan as well as the social dimension of sustainability. In order to comply with the level of affordable wheelchair housing sought by policy HO13 the proposed wheelchair adaptable units would need to be provided within the affordable housing provision. The submitted s106 agreement requires the provision of wheelchair accessible housing and therefore a condition is not required.
133. The Council seeks the removal of permitted development rights in relation to the proposed dwellings. It explained that this is to safeguard the occupants of nearby properties and the character of the area. The PPG 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. There is sufficient separation between the appeal site and neighbouring properties to avoid any harm to living conditions. I consider that there is some justification to limit permitted development rights in so far as they relate to roof alterations to the dwellings closest to the eastern boundary of the site since these would form the boundary of the urban area. I do not consider that exceptional circumstances exist to justify a similar restriction to the other dwellings within the scheme, or indeed to restrict development under Classes A, D or E in respect of these dwellings. Residents suggested that a similar condition had been imposed on a nearby development. I am unaware of the circumstances of that case, and for the reasons given above, it does not alter my conclusions in relation to this matter.
134. In the interests of biodiversity it is necessary to restrict clearance work during the bird breeding season. For the reasons given above, a Red Star

- Thistle Mitigation Strategy is necessary. Given the detailed nature of the mitigation measures required, I consider that this should be a separate condition. The Strategy should be submitted prior to the commencement of development in order to safeguard the biodiversity of the site.
135. I agree that measures to protect the ecological interests of the site during the construction period, including measures for the protection of reptiles, are required. However, these can be addressed as part of the Biodiversity Construction Environmental Management Plan. I have adjusted the suggested conditions accordingly.
136. For the reasons given above, a Habitat Mitigation and Enhancement Plan is necessary. I agree that levels of external illumination should be controlled in order to safeguard the ecological interest of the site and the SDNP which is a dark skies area. This matter would be addressed as part of the Habitat and Mitigation Enhancement Plan and therefore a separate condition is not necessary.
137. The Council suggests a Landscape and Ecological Management Plan is required. However, the matters it would address, namely the management of the open space and horse paddocks, would come within the scope of the Open Space Management planning obligation. Whilst I agree that these matters are essential to the successful delivery of the development, a further Management Plan in addition to that required by the planning obligation is unnecessary.
138. The appeal site is situated within an Archaeological Notification Area defining an area of prehistoric and Romano-British activity. Whilst the geophysical survey indicates the site does not contain remains of national importance, it identified a number of potential features of archaeological interest. Therefore in the light of the potential for loss of heritage assets, I agree that conditions requiring a programme of archaeological works, together with the appropriate analysis and dissemination of results to safeguard the archaeological and historic interest of the site are necessary. The former needs to be a pre-commencement condition in order to safeguard the archaeological interest of the site.
139. Refuse storage and recycling facilities are necessary to provide satisfactory facilities for future occupants. The proposed highway safety measures and improvements are necessary in the interests of highway and pedestrian safety. I have varied the condition to include an implementation programme, since many of the works are outside of the control of the appellant and may not justify a delay in the occupation of the dwellings. Local residents were concerned that the improvements to the bus stops, including the bus shelters, could encourage children to loiter in the area and were unnecessary due to the frequency of buses. Buses provide a sustainable means of transport and their use should be encouraged in accordance with policy CP9 of the City Plan Part One and national planning policy. The bus stops are situated close to the school, and it is likely that children already use these bus stops. Should the behaviour of children using the bus stops be a problem for nearby residents this could be resolved by other means. The potential for such behaviour does not justify the failure to make reasonable improvements to the bus stops which would benefit both students and the general public, including local residents.
140. The streets, footways and cycle routes should be completed in accordance with submitted details, and provided before the dwellings are occupied, in the

interest of highway safety. I agree that any hard surfaces used for the construction of roads, footpaths and driveways should not add to the risk of flooding. However, details of hard surfaces are required as part of the landscape details and therefore a separate condition is unnecessary.

141. I agree that the proposed parking spaces should be provided prior to the occupation of the dwellings in order to ensure that suitable facilities are available for residents. However, I have adjusted the wording to reflect the layout on the submitted plan. Bicycle storage facilities are necessary in order to encourage the use of sustainable transport. Details of foul and surface water drainage are necessary in order to ensure satisfactory living conditions for future residents and ensure that the development is safe from flooding.
142. I agree a condition precluding the installation of appliances for the burning of solid and liquid fuels within the proposed dwellings is necessary and would be consistent with policy CP8. Such appliances could contribute to ambient levels of particulate and nitrogen dioxide, and adversely affect air quality in the locality, including the Rottingdean Air Quality Management Area. Conditions are required to ensure that the proposal complies with policy CP8 of the City Plan Part One in terms of energy and water efficiency. For the same reason an Energy Strategy is required. Details of electric vehicle charging points should be submitted for approval, in the interests of environmental sustainability.
143. The site is considered to have an overall low, or very low, potential from remnant contamination. However, I understand that a previous report considered that further contaminated land investigation was required given the potential human receptors to contamination. I therefore agree that a condition requiring further investigations and any remedial work necessary is required in the interest of health and such investigations are required prior to the commencement of development.
144. I agree that a Construction Management Plan is necessary in order to safeguard the amenity of surrounding residents and to limit the effect of the proposal on the highway network and ensure that waste is managed appropriately.

### **Conclusion**

145. For the reasons given above, I conclude that the appeal should be allowed.

*Lesley Coffey*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Liz Arnold	Principal Planning Officer
Hilary Woodward	Senior Solicitor

### FOR THE APPELLANT:

Christopher Boyle QC  
Instructed by Pegasus Planning

He called

Dr Daniel Simson	Aspect Ecology
James Atkin	Landscape Consultant Pegasus Planning Group
Daniel Weaver	Planning Consultant Pegasus Planning Group

### FOR DEANS PRESERVATION GROUP :

John Richardson	Chairman Deans Preservation Group
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He called

Jacqueline Thompson	Arbeco Ecology
Charmaine Noel	Landvision Landscape Architects
James Wright	

### INTERESTED PERSONS:

Councillor Joe Miller	Ward Councillor
Councillor Mary Mears	Ward Councillor
Councillor Heather Butler	Parish Councillor
Annie Gilbert	
Russell Smith	
Mark Richardson	
Tracie Parker	
Suzanna Ancell	
Mr Johnson	CPRE

### DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Extract from the Lowland Grassland Management Handbook submitted by the appellant
- 2 Extract from Entry Level Stewardship Handbook 2010 submitted by the appellant
- 3 Extract from Urban Fringe Assessment 2015 -Site 42 submitted by the appellant
- 4 Extract from Mavis User Manual submitted by DPG
- 5 Bundle of documents in relation to survey methodology submitted

- by DPG
- 6 Email dated 12 July 2017 from the County Ecologist submitted by DPG
- 7 Map showing the status of the Highway at The Vale submitted by DPG
- 8 Calculation summary in support of John Wright's Proof of Evidence submitted by DPG
- 9 Comparison of descriptive terms within the UFA 2015 in relation to number of dwellings submitted by DPG
- 10 South Downs Wildlife Improvement Area: Local Wildlife Sites Surveys 2012-2014 submitted by DPG
- 11 Extract from Methods of Environmental Impact Assessment submitted by the appellant
- 12 Submission on behalf of Annie Gilbert
- 13 Errata Sheet for James Wright Proof of Evidence
- 14 Plan showing extent of AONB submitted by the appellant
- 15 Email dated 20 October 2014 and attachments in relation to SDNP boundary submitted by DPG
- 16 James Wright Updated Proof of Evidence
- 17 Calculation Summary James Wright proof of Evidence
- 18 Email dated 20 March 2018 from Sussex Biodiversity Record Centre submitted by DPG
- 19 Note from DPG regarding Ms Noel's 2015 Landscape Assessment
- 20 Updated Housing Land Supply Tables submitted by the appellant
- 21 Appeal decision ref: APP/P2935/16/3158266 Land at Highthorn, Widdrington submitted by the appellant



**Appeal Ref:APP/Q1445/W/17/3177606**

**Schedule of Conditions**

- 1) Details of appearance, (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matter shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall commence not later than 2 years from the date of approval of the reserved matter.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:  

Location Plan – Drawing No. BRS.4783\_04-1 Revision B received 3 October 2016; Site Layout Plan – Drawing No. BRS.4783\_20 Revision AG received 20 April 2017; Proposed Site Access – Drawing No. Figure 4.1 Received 30 September 2016; Soft Landscape Proposals 1 of 3 – Drawing No. BRS4783\_64 Revision D received 1 May 2018; Soft Landscape Proposals 2 of 3 – Drawing No. BRS4783\_65 Revision D received 1 May 2018; and Soft Landscape Proposals 3 of 3 – Drawing No. BRS4783\_66 Revision D received 1 May 2018.
- 5) Details of the existing and proposed ground levels showing any changes to levels, finished ground slab levels, and cross sections to show the buildings adjoining the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 6) Prior to the commencement of development, an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. The Arboricultural Method Statement shall include the details of the specification and location of tree and hedgerow protection, shown on a Tree Protection Plan (TPP). The TPP shall also show root protection areas of all retained trees, and details of pruning or removal of trees and hedges both within and overhanging the site. The Arboricultural Method Statement shall provide details of any construction activities that may require works within the protected root areas, including service runs and soakaways. All works shall be carried out in strict accordance with the approved details.
- 7) Prior to the commencement of any works protective fencing in accordance with the approved Tree Protection Plan shall be erected on the site and shall be retained for the duration of the construction period.
- 8) A scheme for hard landscaping, together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - a) Details of all hard surfacing; and

b) The positions, height, design, materials and type of all existing and proposed boundary treatments

All hard landscaping and means of enclosure shall be completed in accordance with the approved details and programme of implementation prior to first occupation of the development. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained.

- 9) All planting, seeding or turfing comprised in the scheme of landscaping as set out in the landscaping plans listed in condition 4 shall be carried out in the first planting and seeding seasons following the first occupation of the dwellings or the completion of the development, whichever is the sooner. 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.
- 10) Notwithstanding the provisions of Schedule 2, Part 1, Classes B and C 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 roof alterations or roof extensions shall be erected to the dwellings on plots 2,3,4,28,29,30,31,38,39 and 45.
- 11) No clearance or destruction of any vegetation or structure which may be used as a breeding site shall take place during the bird breeding season, (1 March to 31 August) unless otherwise previously agreed in writing with the Local Planning Authority.
- 12) No development shall take place including any demolition, ground works, or site clearance, until a Red Star Thistle Mitigation Strategy, in accordance with the principles within the Aspect Ecology Red Star Thistle Mitigation Strategy dated March 2017, shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall provide details of the translocation receptor sites, the long-term management and monitoring arrangements and proposals for remedial action should a decline in the Red Star Thistle population at the retained/translocated receptor areas be detected. The scheme shall be implemented in accordance with the mitigation strategy.
- 13) No development shall take place (including demolition, groundworks, vegetation clearance) until a Biodiversity Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include the following:

- a) Measures for the interim protection of the paddocks and informal open space, with a view to conserving the habitat of the Hornet Robberfly, the Cinnabar Moth and protection of reptiles;
- b) Identification of "biodiversity protection zones";
- c) Practical measures to avoid or reduce impacts during construction;
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee and supervise works;

- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an Ecological Clerk Of Works or similarly competent person; and
- h) Use of protective fences and exclusion barriers and warning signs;

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period.

- 14) No development shall commence until a Habitat Mitigation and Enhancement Plan together with a programme for implementation has been submitted to and approved in writing by the Local Planning Authority. The Plan shall generally accord with the measures identified in Section 6.0 of the Aspect Ecology Ecological Appraisal dated September 2016. The approved Plan shall be implemented in full in accordance with the approved programme.
- 15) No development shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.
- 16) The development hereby permitted shall not be brought into use until the archaeological site investigation and post-investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Archaeological Investigation and provision for analysis, publication and dissemination of results, and archive deposition, has been secured.
- 17) Details of the following highway works, together with a Stage 2 Road Safety Audit and an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority. The works should be in accordance with the principles within the Transport Planning Associates Revised Transport Assessment dated March 2017:
  - a) The access to the site from Ovingdean Road, including the side road entry;
  - b) A vehicular crossover to serve Plot 1;
  - c) The removal of the redundant crossover on Ovingdean Road and reinstatement of the footpath;
  - d) A right turn lane with a pedestrian refuge at the junction of Falmer Road/Ovingdean Road;
  - e) Parking restrictions or measures to prevent parking on Falmer Road and the adjacent verge; and
  - f) Bus shelters, including Real Time Passenger Information signs and Kassell kerbs at the two bus stops on Ovingdean Road directly opposite the site, and the two bus stops closest to the site on Falmer Road.

The scheme shall be implemented in accordance with the approved details and agreed programme.

- 18) Details of the standards to which the streets, footways and cycle routes are to be constructed shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby approved shall be

- occupied until the streets, footways and cycle routes have been constructed in accordance with the approved details.
- 19) The dwellings hereby approved shall not be occupied until refuse and recycling storage facilities have been installed to the side or rear of the dwellings and made available for use. These facilities shall thereafter be retained for use at all times.
  - 20) No dwelling shall be occupied until space has been laid out for that dwelling in accordance with drawing no: BRS.4783\_20AG for cars to be parked. The parking spaces shall thereafter be kept available at all times for the parking of vehicles by the occupants of the dwellings and visitors.
  - 21) Details of secure cycle parking facilities for the occupants of and visitors to the development, together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided in accordance with the approved details and programme of implementation, and shall thereafter be retained.
  - 22) Details of the foul drainage scheme to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details prior to the first occupation of the development.
  - 23) A detailed design and associated management and maintenance plan for surface water drainage works for the site using sustainable drainage methods shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details prior to the first occupation of the development.
  - 24) The development shall not include appliances for solid or liquid fuel burning, and any boilers within the development should be ultra-low NO<sub>x</sub> gas boilers, details of which are to be submitted to and approved in writing by the Local Planning Authority prior to installation.
  - 25) No dwellings shall be occupied unless it achieves a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.
  - 26) Details shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the dwellings hereby permitted shall achieve energy efficiency standards of a minimum of 19% CO<sub>2</sub> improvement over Building Regulations Part L 2013. The scheme shall be implemented in accordance with the approved details.
  - 27) An Energy Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Strategy should include a renewables feasibility study and proposals to install renewable energy generation, a strategy for energy efficiency and a means to achieve the 19% carbon reduction target. The scheme shall be implemented in accordance with the approved details.
  - 28) Details of the number and location of electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The charging points shall be provided prior to the occupation of the dwellings hereby permitted and shall thereafter be permanently retained.

- 29) Prior to the commencement of development a 'check' contamination analysis shall be undertaken to confirm a conceptual model and allow a generic quantitative risk assessment to be undertaken. If notified in writing by the Local Planning Authority that the results of the risk assessment are such that site remediation is required, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority.
- 30) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the Local Planning Authority.
- 31) No development shall take place until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Plan shall provide for:
- i) The phases of the proposed development including the forecast completion dates;
  - ii) A commitment to apply to the Council for Prior Consent under the Control of Pollution Act 1974 and not commence development of until such consent has been obtained;
  - iii) Arrangements to liaise with local residents to ensure that residents are kept aware of site progress and to address any complaints;
  - iv) Measures to control the emission of noise, dust, and vibration;
  - v) Details of the hours of construction including all associated vehicular movements;
  - vi) Details of construction traffic routes which should only access the application site from the north and avoid the Rottingdean Air Quality Management Area; and
  - vii) A scheme for recycling/disposing of waste resulting from demolition and construction works;

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.





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## Costs Decision

Inquiry opened on 24 April 2018

Site visit made on 27 April 2018

**by Lesley Coffey BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26 June 2018**

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### **Costs application in relation to Appeal Ref: APP/Q1445/W/17/3177606 Land South of Ovingdean Road, Brighton BN2 7AA**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Lightwood Strategic for a full award of costs against of Brighton & Hove City Council.
  - The inquiry was in connection with an appeal against the refusal of the Council to grant planning permission for the construction of 45 one, two, three, four and five bedroom dwellings with associated garages, parking, estate roads, footways, pedestrian linkages, public open space and strategic landscaping. New vehicular access from Ovingdean Road and junction improvements.
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### **Decision**

1. The application for an award of costs is refused.

### **The submissions for Lightwood Strategic**

2. The application for costs was made in writing in June 2017 and supplemented at the inquiry. In summary, the appellant states that the application was refused contrary to officers' advice and disregarded the findings of the Inspector at the time of the previous appeal.
3. The Council failed to review its case in a timely manner. The decision not to defend the appeal was made February 2018, and this did not leave sufficient time for a further application to be determined prior to the inquiry. As a consequence it was necessary for the appellant to defend the appeal and present evidence.

### **The response by Brighton and Hove**

4. The Council responded in writing.

### **Reasons**

5. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
6. PPG paragraph ID: 16-047-20140306 sets out the type of behaviour that may give rise to a procedural award of costs. The examples include withdrawing a reason for refusal. Following a review of its case, the Council withdrew two of the reasons for refusal, namely that in relation to air quality and the effect of

the proposal on the setting of Ovingdean and Rottingdean Conservation Areas and the gap between the settlements. These reasons for refusal were withdrawn before the appellant's proofs of evidence were due. Proofs of evidence in relation to these matters were not submitted to the inquiry. I therefore do not consider that the withdrawal of these reasons for refusal was unreasonable, or gave rise to any wasted expense.

7. PPG paragraph ID: 16- 049-20140306 sets out the circumstances where a substantive award of costs may be made against a local planning authority. These include failing to review their case promptly following the lodging of an appeal against refusal of planning permission.
8. Statements of case were exchanged at the beginning of December. A case conference took place in early January. Following the case conference the matter was reported back to Planning Committee at the beginning of February, advising that reasons 2 and 3 should be withdrawn and the planning balance should be reassessed. The Council's decision not to defend the appeal was reported to the appellant the same evening.
9. The Council's case conference was held in a timely manner following the exchange of statements of case, as was the referral back to committee. The decision made by the committee was a matter of planning judgement. Having regard to the need to comply with the democratic process, I am doubtful that the Council could have either withdrawn the reasons for refusal, or decided not to defend the appeal, at an earlier stage in the appeal process.
10. The fact that there was insufficient time for a further application to be submitted and determined and thereby avoid an appeal does not represent unreasonable behaviour on the part of the Council. In the circumstances of this case the appeal would have still been necessary, or alternatively the appellant could have withdrawn the appeal pending the outcome of a further application. I therefore do not find the Council's behaviour to be unreasonable, or have caused the appellant to incur unnecessary expense.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Lesley Coffey*

INSPECTOR





## Appeal Decision

Site visit made on 11 June 2018

by **C. Jack, BSc(Hons) MA MA(TP) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2<sup>nd</sup> July 2018

**Appeal Ref: APP/Q1445/D/18/3198273**

**12 Rushlake Road, Brighton, BN1 9AD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr John Blackburn-Panteli of Brighton Student Developments Ltd against the decision of Brighton & Hove City Council.
- The application Ref: BH2017/01810 dated 25 May 2017 was refused by notice dated 16 March 2018.
- The development is alterations to the existing outbuilding in rear garden including replacement of existing garage door, alterations to fenestration and installation of hand railing.

### Decision

1. The appeal is allowed and planning permission is granted for alterations to the existing outbuilding in rear garden including replacement of existing garage door, alterations to fenestration and installation of hand railing at 12 Rushlake Road, Brighton, BN1 9AD in accordance with the terms of the application Ref: BH2017/01810 dated 25 May 2017 and the Site Location Plan, Block Plan, and drawing 2017/54 submitted with it, and subject to the following condition:
  - 1) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 12 Rushlake Road, Brighton, BN1 9AD.

### Preliminary Matters

2. The development was described on the application form as a "retrospective application to regularise the building permitted under Council Ref: BH2011/02592 including alterations to the garage door, an additional window, an additional roof light and an additional handrail". This was amended during the course of the application to that given above, as specified on the Council's decision notice. The Council considered the development as 'retrospective' and I saw during my site visit that works including a garage door, roof light, hand rail and an additional window have been carried out at the outbuilding which is the subject of this appeal.
3. I made an internal inspection of the appeal building and saw that changes to the internal layout of the outbuilding have also been undertaken, largely in accordance with the submitted plans, albeit there is an internal wall in the bedroom in place of the garage door opening indicated on the submitted floor plan 2017/54. The accommodation provided now essentially comprises of a bedroom, living room with kitchen area, a shower room and a dedicated entrance door, essentially amounting to the primary living accommodation

necessary for use as a single dwelling. Case law<sup>1</sup> has established that even where accommodation provides facilities for independent living, it does not necessarily become a separate planning unit from the main dwelling. This is a matter of fact and degree.

4. The Council's reasons for refusal refer to the creation of a self-contained unit of accommodation and it is clear from the officer report that it considered the application on the basis that the appeal building would be capable of use as a self-contained dwelling. The appellant maintains that the application is for a householder development relating to planning permission BH2011/02592 for the erection of a detached single storey building incorporating workshop, bedroom and shower room in the rear garden at 12 Rushlake Road (No 12). The appellant clearly stated that the formation of self-contained accommodation was not proposed in the application, and it is not referenced in the description of the development. Condition 4 of that planning permission limits the occupation of the building solely to purposes incidental to the occupation and enjoyment of No 12, and not as a separate planning unit. The appellant's appeal documents are similarly clear that a separate dwelling is not proposed, and that a condition could be imposed to continue to restrict the occupation of the appeal building to ancillary purposes.
5. The Council's report indicates that No 12 is a 6-bed House in Multiple Occupation (HMO). This has not been confirmed by the appellant, who has sought permission on the basis of a householder application and, therefore, that No 12 is a dwelling/house. If No 12 is in multiple occupation it may not be a dwelling/house, which would call into considerable doubt whether an ancillary residential use would be, or could be, delivered. However, this cannot be satisfactorily established from the evidence before me.
6. The Council's reasons for refusal also refer to subdivision of the site, and I saw that various close-boarded fences and gates have been erected, both near the appeal building and the rear elevation of No 12. These appear to mark out separate, enclosed, outside areas at the appeal building and at No 12, with a hard standing area in between. The effect of this on the ground appears to be to subdivide the site. However, no form of subdivision, including the fences and gates I saw in situ, is included in the application. Therefore, this matter is outside the scope of the appeal before me.
7. The appeal building did not appear to be occupied at the time of my visit, although the various items of furniture inside, including a bed, dining table and sofa, indicate that it has been at some point, consistent with the Council's view. Furthermore, the information provided does not show who the proposed occupiers of the appeal building would be, or how the appeal building would be occupied and used by people forming a single household with the occupiers of No 12.
8. I have considered the context above. It is clear that the appellant has made a householder application for external works to the appeal building, on the express basis that it is proposed to remain ancillary to No 12. I have determined the appeal on the basis of the application that was made to the Council, and accordingly I have assessed the main issues below in the context of an ancillary building. My assessment and conclusions in respect of the main issues may have been different in the circumstances of an application for use of

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<sup>1</sup> *Uttlesford DC v SSE & White [1992]*

the appeal building as a self-contained dwelling unit, including because the effects, evidence, and policy context of such a scheme may differ significantly.

9. Any matters of concern to the Council not forming part of the application, including in relation to the occupancy and use of No 12 and the appeal building, subdivision of the site, creation of a separate dwelling unit, and compliance with conditions, are the responsibility of the Council to address through other mechanisms. Any future applications in this regard would be a matter for the Council in the first instance. Therefore, I have not considered them in this appeal.

### **Application for costs**

10. An application for costs was made by Mr John Blackburn-Panteli of Brighton Student Developments Ltd. against Brighton & Hove City Council. This application is the subject of a separate Decision.

### **Main Issues**

11. The main issues are the effect of the proposed development on:
- i) The character and appearance of the area;
  - ii) The living conditions of neighbouring occupiers, with particular regard to noise and disturbance and the provision of outdoor space; and
  - iii) The living conditions of future occupiers, with particular regard to light, internal space, and outlook.

### **Reasons**

#### *Character and appearance*

12. The front elevation of the appeal building is partially visible from Rushlake Road, down the drive. In this view, the garage door in the gable end is the main visible feature, and the appearance of the building is commensurate with a typical garage. I saw that detached garages set back behind the houses are a common feature in the local area. As a result, the external appearance of the appeal building is not out of keeping here. The additional window, roof light and handrail are very modest in scale and nature, are effectively screened from public view, and have no discernible adverse effect on the local street scene.
13. I therefore conclude that the development does not harm the character and appearance of the area, consistent with the expectations of Policy CP12 of the adopted Brighton and Hove City Plan Part One 2016, which sets out criteria in relation to urban design, including that development should respect the diverse character and urban grain of the city's identified neighbourhoods.

#### *Living conditions – neighbouring occupiers*

14. The detached appeal building is situated to the rear of No 12, offset from the rear elevation of the main property. The handrail and additional window are located to the side of the appeal building and are very modest in scale and character. The additional window, to the bedroom, does not face No 12. The roof light is positioned in the slope facing away from No 12, from where it is not readily visible. The garage door is of altered design, materials and hanging from that shown on the previously permitted plans, but this has no

significant effect on the living conditions of occupiers of No 12, including in relation to the provision of outdoor space.

15. I saw that a close-boarded fence encloses a very modest yard-type area adjacent to the rear elevation of No 12. As noted above, this fence, and any resulting subdivision of the site, does not form part of the application before me.
16. I note that the development has increased the overall provision of living accommodation in the appeal building, compared to the previous planning permission. However, it remains a one bedroom unit of modest internal proportions which, on the basis of occupation ancillary to No 12 as a main dwelling/house, would only give rise to very modest intensification of domestic activity at the site. Given that the overriding character of the locality is residential, and that ancillary occupation of the building would be as part of a main household at No 12, I am not persuaded that this would be significantly at odds with existing domestic garden land, or that harm to the living conditions of neighbouring occupiers would be likely to arise as a result.
17. I therefore conclude that the development does not harm the living conditions of neighbouring occupiers, with particular regard to noise and disturbance and the provision of outdoor space. It therefore accords with retained Policy QD27 of the Brighton and Hove Local Plan 2005, which among other things seeks to protect the amenity of adjacent residents from material nuisance arising from development. This policy pre-dates the National Planning Policy Framework (the Framework) but it generally consistent with paragraph 17 therein, which among other things seeks to ensure a good standard of amenity for all existing occupants of land and buildings. I have therefore given it significant weight in this appeal.

#### *Living conditions – future occupiers*

18. Sources of natural daylight to the living room are limited to the obscure glazed entrance door, a small window adjacent to that door, and a single roof light. My visit took place on a moderately bright afternoon, with sunny intervals. While these sources of daylight are modest in scale and number, I saw that the living area was not unduly dull or oppressive, with the roof light adding significant natural daylight into the room. The bedroom and bathroom are each adequately served by their single windows. There is no technical evidence before me, such as light-level data or a daylight and sunlight assessment. However, on the basis of my experience in the building, I am not persuaded that natural daylight is so restricted as to have a significant adverse effect on the living conditions that would be experienced there.
19. The outlook from the living room window and bedroom window is onto the paved area immediately outside. This outlook is of limited depth and is partially restricted by the nearby close-boarded fence, albeit the relative floor level of the appeal building allows for some outlook above the fence. The bathroom window and front door are obscure glazed and thus offer no meaningful outlook. The roof light offers only a limited upward outlook. I consider that while somewhat limited, the outlook from the main living areas in the building, being the bedroom and living room, is not so restrictive that it would have a significant adverse effect on the living conditions of future occupiers of the building. This is particularly the case given that the stated use of the building is as ancillary, rather than primary, accommodation.

20. I note that the overall floor space provided is modest at around 30m<sup>2</sup>, taking the Council's figure, which is not specifically disputed by the appellant. I also note that this falls short of the 37m<sup>2</sup> expected by the government's Nationally Described Space Standard for a one bedroom unit with a shower room. However, the Written Ministerial Statement of 25 March 2015 makes it clear that such standards can only be applied where there is a relevant current development plan policy, and I have not been directed to such a policy. Consequently, this is not a matter which carries any significant weight against the proposal. Nonetheless, I consider that the internal layout and space provided are generally adequate for the scale and ancillary nature of the unit as applied for.
21. I conclude that the development would not harm the living conditions of future occupiers, with particular regard to light, internal space, and outlook. Consequently, it would accord with the requirements of retained Policy QD27 of the Brighton and Hove Local Plan 2005, which among other things seeks to protect the amenities of a development's future occupiers including in respect of light and outlook. This policy pre-dates the Framework but is generally consistent with paragraph 17 therein, which among other things seeks to ensure a good standard of amenity for future occupiers. I have therefore given it significant weight in this appeal.

### **Conditions**

22. I have considered the conditions suggested by the Council and the appellant. As the development has been carried out, the standard time limit is not necessary and neither is a condition requiring development to be carried out in accordance with the approved plans. However, I have specified the relevant plans in the decision, in the interests of certainty. A condition requiring that occupation of the appeal building is solely for purposes ancillary to the indicated residential use of the main dwelling is necessary in the interests of the character and appearance of the area and the living conditions of nearby and future occupiers. I have amended the wording from that of previous condition 4 in the interests of clarity and preciseness, having regard to paragraph 206 of the Framework and relevant advice in the Planning Practice Guidance. This does not significantly alter the essence of the condition.

### **Conclusion**

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

*Catherine Jack*

INSPECTOR





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## Costs Decision

Site visit made on 11 June 2018

by **C. Jack, BSc(Hons) MA MA(TP) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2<sup>nd</sup> July 2018

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### **Costs application in relation to Appeal Ref: APP/Q1445/D/18/3198273 12 Rushlake Road, Brighton, BN1 9AD**

- 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 John Blackburn-Panteli of Brighton Student Developments Ltd. for a full award of costs against Brighton & Hove City Council.
  - The appeal was against the refusal of planning permission for development described as a "retrospective application to regularise the building permitted under Council Ref: BH2011/02592 including alterations to the garage door, an additional window, an additional roof light and an additional handrail".
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application for an award of costs on substantive grounds essentially relied on behaviour by the Council in determining the application. Principally it was argued that refusal of the development was unreasonable on the basis that the three reasons for refusal given related to the development being a self-contained dwelling unit. The applicant considered that the application documents were unmistakably clear that a separate dwelling was not being proposed, and had expressly stated that, "For the avoidance of doubt, the building would remain ancillary to 12 Rushlake Road as per Condition 4 of the Decision Notice granting Council ref: BH2011/02592". I note that the description of development also did not refer to the creation of a separate dwelling, rather to various external works. The application was retrospective, and the works shown had essentially been carried out some time prior to my site visit.
4. The PPG states that examples of unreasonable behaviour by local planning authorities include: failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and providing information that is shown to be manifestly inaccurate or untrue. Furthermore it states that costs can only be awarded in relation to unnecessary or wasted expenses at the appeal, albeit behaviour and actions at the time of the planning application can be taken into account.

5. While the applicant strongly maintained that the appeal building was proposed to be used for purposes ancillary to 12 Rushlake Road, the LPA found the totality of development that had taken place to be tantamount to the creation of a new dwelling. The Council was also of the view that No 12 is a House in Multiple Occupation, rather than a dwelling/house. The reasons for refusal given in the decision notice were complete, precise, specific and relevant to the development that the Council found before it. They also stated the policies of the development plan that the Council found the development to conflict with.
6. The Council's report indicated that permission was sought for the works to the building to facilitate the conversion to a separate dwelling. This was consistently disputed by the applicant. Nonetheless, the reasons given were adequately substantiated by the Council in its officer report, which was relied upon in the appeal. The officer report adequately explained the Council's analysis and reasoning that the development amounts to a self-contained dwelling, and that this would be detrimental to the character and appearance of the area, and the living conditions of future and adjacent occupiers. Even having full regard to the applicant's position that a separate dwelling was not proposed, I am satisfied that the Council was not unreasonable in its determination of the application on the basis of a practical consideration of the planning merits of the application in light of relevant information available to it. This included the extenuating circumstances of retrospective works, and the form and nature of the development that the Council considered has been carried out.
7. In my appeal decision, I dealt rigidly with the application proposal on the basis applied for, and on the basis of the evidence provided to me in the appeal. However, there appears to be some divergence with the appeal scheme and the subdivision that seems to be in effect on site. There is also uncertainty in relation to the current use of No 12. These factors may call into question the delivery of an ancillary use of the appeal building. There was insufficient evidence before me in the appeal to conclude on this matter. I do not know if the Council had additional internal evidence before it at the time of its decision, such as a current HMO licence for the property. However, as the appeal followed the expedited householder procedure, the Council was only able to rely on its officer report and did not have the opportunity to provide further information to support its position in a statement to the appeal. Therefore, while the Council's reasons for refusal contradicted the applicant's stance in relation to the creation of a separate dwelling, I am not persuaded that it has been demonstrated that they were manifestly inaccurate or untrue, given the limitations of the evidence before me.
8. In the appeal, I concluded differently from the Council on the basis of the proposed ancillary use of the building being controlled by condition, which effectively relies upon No 12 being a dwelling/house as was indicated by the nature of the application, but was not verified either way in the appeal evidence. Nevertheless, I am satisfied that the Council was not unreasonable in its refusal to grant planning permission, that its reasons for refusal were not ill-founded based on its assessment of the development, and that it substantiated its position adequately at appeal within the confines of the expedited procedure.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not



been demonstrated, given the uncertainties pertaining to the use of No 12 and the effects of other works carried out on site but not forming part of the application. For this reason, and having regard to all matters raised, an award of costs is not justified.

*Catherine Jack*

INSPECTOR






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## Appeal Decision

Site visit made on 11 June 2018

**by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 July 2018**

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**Appeal Ref: APP/Q1445/W/18/3197724**  
**132 Upper Lewes Road, Brighton BN2 3FD**

- 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 Tim Squire against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/02505, dated 24 July 2017, was refused by notice dated 19 December 2017.
  - The development proposed is a first floor extension.
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### Decision

1. The appeal is allowed and planning permission is granted for a first floor extension at 132 Upper Lewes Road, Brighton BN2 3FD in accordance with the terms of the application, Ref BH2017/02505, dated 24 July 2017, and the plans submitted with it, subject to the following conditions:-
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan A3 Drawing Size 1:500 and 1:1250 scale; Existing Detail A1 drawing size Scale 1:50 August 2016; Proposed Detail A1 drawing size Scale 1:50 August 2016.
  - 3) The materials to be used in the external surfaces of the development hereby permitted shall match those used in the existing building.

### Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the building and the rear of the terrace.

### Reasons

3. The space between the long, tall terrace which contains the appeal site and the rear of the terrace opposite is short and enclosed. It has a still and intimate character, where the townscape of the back of the buildings is conspicuous, in which context the consistency and quality of its townscape is especially important.
  4. While most outriggers in this section of the street block enclosure are only one or two storeys high, there is sufficient number reaching close to the eaves of the terraces that the proposed upward extension would not appear out of place. In terms of the surrounding pattern of development, the extended outrigger would not be out of character.
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5. In terms of its appearance, the upward extension of this outrigger would terminate well below the eaves of the terrace, maintaining the prominence and continuity of this distinctive line along the terrace. Its window proportions, materials and detailing would reflect the townscape of the surrounding elevations. The slot window opening in the main wall would be sufficiently discrete not to disrupt the fenestration across the terrace.
6. I appreciate that the Council's design guidance<sup>1</sup> says that roofs should respect the design of the host building and that flat roofs are generally unacceptable. However, the roofs of the outriggers within sight of this one are both flat and pitched, including those over the taller examples. Moreover, the number of full-width, flat-roofed dormer extensions on the main roofs of these terraces also have a bearing on the character of the roofscape. In the context of the surrounding roofs, which includes tall outriggers and high-level flat roofs, I can see no harm from the proposed flat roof, at this height.
7. I note the Council's point that many of the surrounding outriggers may not have planning permission. However, this does not change the bearing they now have on the character of the terrace. The outrigger is sufficiently tall and slim, and distant from the lower outrigger to one side, not to cause a harmful imbalance in the rear elevation.
8. I can identify no harm from the proposed development to the character and appearance of the building and the rear of the terrace, and no conflict with policy QD14 of the Brighton and Hove Local Plan which requires extensions to take account of the character of the area, and to be well designed, sited, and detailed in relation to the property, adjoining properties and the surrounding area.

### **Other matters**

9. I have considered the effect of the extension on the adjoining openings, the closest of which is described as serving a stairway. Given the height and projection of the existing outrigger, I can see no harm from the proposed uplift to the living conditions of surrounding occupiers.

### **Conditions and conclusion**

10. I have imposed the statutory time condition as well as conditions listing the approved drawings and requiring materials to match the existing building to provide certainty and to safeguard the appearance of the area. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Patrick Whelan*

INSPECTOR

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<sup>1</sup> Supplementary Planning Document 12, design guide for extensions and alterations, 2013




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## Appeal Decision

Site visit made on 11 June 2018

**by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 July 2018**

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**Appeal Ref: APP/Q1445/W/18/3196605**

**43 Lenham Avenue, Saltdean, Brighton BN2 8AG**

- 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 Tracy John Buckland against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/02190, is dated 29 June 2017.
  - The development proposed is the demolition of the existing dwelling and erection of a pair of semi-detached dwellings.
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### Decision

1. The appeal is dismissed and planning permission for the demolition of the existing dwelling and erection of a pair of semi-detached dwellings is refused.

### Main Issues

2. Though the Council did not determine the application, from its evidence and the representations of interested parties, I consider the main issues in the appeal are the effect of the proposed development on:
  - the character and appearance of the area; and,
  - the living conditions of surrounding occupiers, with particular regard to outlook and privacy at 45 Lenham Avenue.

### Reasons

*The character and appearance of the area*

3. One of the defining characteristics of the pattern of development around this site is the generally detached nature of the houses. While there is variation across the houses in terms of their forms, their materials and their height, an apparently consistent feature of this section is their detached nature.
  4. This has a significant effect on the appearance of the houses, which reinforces the attractive character of space and dwelling. In this respect, this development of a pair of semi-detached houses would appear at odds with the prevailing pattern of development of the area, and in particular, with one of the characteristics that gives it some coherence in its appearance.
  5. I can see no harm from the height of the houses which would be within the range of the heights of the eaves and ridges of the houses on the high side of the street. The street-facing, half-gables would be staggered at the party wall
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which would soften their symmetry; these would not look out of place alongside the large, street-facing gables close by. I saw numerous examples of front, side, and back dormers in the area, some larger than those proposed here and less sensitively sited, in which context the side dormers proposed would not appear incongruous. The gaps from the flank walls to the side boundaries would be similar to those in the area, and the combined footprint would reflect those on this side of the street.

6. The second floor openings would be large, but not out of scale with the remaining wall area. The first floor deck and central stair would not be out of place where neighbouring houses also use stairs and terraces to maximise views to the east. The existing house has rendered walls and it is a common material in the street. I did not see examples of oak boarding, or zinc as finishes in this area, though I note these are incorporated in limited areas. The plain, blue slate proposed for the main roofs appeared to me to be at odds with the more profiled roof finishes of clay or concrete in this street, however, this could be resolved by condition.
7. The frontage would retain planted areas to the side boundaries which would reflect the layouts of some of the front gardens I saw in the street. The extent and levels of the rear terrace would appear similar to the present arrangement, with the only doors in the rear elevation opening onto the lowest level. I acknowledge the care and imagination which has gone into designing an interesting and attractive building which would meet the high aspirations of policy CP12 part 1 of the Brighton & Hove City Plan Part One 2016 (CP) in raising the standard of design in the city.
8. However, in this street, the appearance of the houses being detached is a critical part of their architectural coherence. The positive aspects above do not outweigh the harm that would be caused by the strongly paired, semi-detached appearance of the development to the architectural character of the street scene derived from its common, house typology which is detached. For this reason, the proposed development would conflict with part 2 of CP policy CP12 which requires development to respect the urban grain and character of the neighbourhood.

*The living conditions of surrounding occupiers*

9. I noted a number of clear-glazed, ground floor windows in the flank of No 45 which appeared to serve habitable rooms. Whilst the building would have an effect on outlook from these rooms, when taking into account the height and proximity of the existing house, against the proposal, the separation that would be retained, and the planting on the side boundary, the change would not result in harm to the outlook from inside No 45 or from its back garden or side area.
10. The dormer windows would serve stairways which would not cause material loss of privacy by overlooking. There may be some overlooking of rear gardens from the houses but this would be no more than is commonly accepted in the built-up area.
11. The outline of a bridge is indicated from the back of the house to the rising back garden in the 1:200 ground floor plan. Without more information than 2 dashed lines it is difficult to tell if it would cause overlooking into No 45. It appears to be a remnant of a previous iteration as it would no longer fit with

the arrangement shown on the other drawings. The appellant confirms it was included in error. Were I allowing the appeal, an appropriate condition could ensure that the bridge did not form part of the planning permission.

12. Given the gable form of the existing building facing the side boundaries there would be no harmful loss of daylight to neighbours. There may be a marginal increase in overshadowing towards No 45, however, given the effect from the existing house, and the planting on the boundary, there is no substantive evidence that any increase would be harmful to the enjoyment of the garden or rooms within the house.
13. I have had regard to the levels of the proposed development and the location of its openings and terraces; however, given its separation from neighbouring houses, the slope of the land and the planting along the boundaries of the back garden, I can identify no harm to the living conditions of other occupiers.
14. I conclude on this issue that the proposed development would not harm the living conditions of surrounding occupiers, with particular regard to outlook and privacy at 45 Lenham Avenue. There would be no conflict with saved policy QD27 of the Brighton & Hove Local Plan which protects the amenity of adjacent occupiers.

### **Planning balance**

15. The proposed development would provide a modest social benefit on one additional house to local housing supply to which paragraph 47 of the National Planning Policy Framework (the Framework) anticipates a significant boost. It would bring economic benefits too, both from its construction and from the spending in the local economy of the future occupiers. It would also have access to a range of local amenities and services and public transport which would have environmental advantages. However, it would result in harm to the architectural character of the area, which would place it in clear conflict with the development plan.
16. The appellant suggests there is a shortfall of housing but does not indicate the degree of shortfall in the 5-year supply of deliverable housing sites, whereas the Council claims it has a 5.6-year supply. However, even if I were to conclude there is a shortfall in the 5-year housing land supply and that relevant policies for the supply of housing should not be considered up-to-date, the proposal does not adequately address the environmental role of sustainable development as set out in paragraph 7 of the Framework, and does not therefore constitute sustainable development. I find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits of the development.

### **Conclusion**

17. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

*Patrick Whelan*

INSPECTOR








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## Appeal Decision

Site visit made on 3 July 2018

**by N A Holdsworth MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 July 2018**

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**Appeal Ref: APP/Q1445/W/18/3192567**

**33 Green Ridge, Brighton, BN1 5LT**

- 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 and Mrs Boyle against Brighton & Hove City Council.
  - The application Ref BH2017/03577 is dated 24 October 2017.
  - The development proposed is first floor extension within roof. Front and rear ground floor extensions.
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### Decision

1. The appeal is allowed and planning permission is granted for first floor extension within roof. Front and rear ground floor extensions at 33 Green Ridge, Brighton, BN1 5LT in accordance with the terms of the application, Ref BH2017/03577, dated 24 October 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 following approved plans: 117/P 003, 117/P 202, 117/P 203.
  - 3) Except where differences are shown on the approved plans, the external finishes of the development hereby permitted shall match in material, colour, style, bonding and texture those of the existing building.

### Main Issues

2. The effect of the development on:
  - The character and appearance of the host building and surrounding area; and
  - the living conditions of the occupants of neighbouring residential properties, with particular regard to overlooking, daylight and sunlight, and outlook.

### Reasons

#### *Character and appearance*

3. The existing building is set within a staggered row of properties facing Green Ridge, set at angles to the road. Whilst the existing building is a bungalow, others further along, including the adjacent building at No.35, are two storey properties. I observed that there is limited uniformity in the appearance of

these properties, although there is some consistency in the way in which they are sited in relation to the road.

4. In this case, the extensions would not significantly project beyond the established front building line of the dwelling. The existing relationship between the property and the road would therefore be preserved. Whilst the extended building would have an additional storey, this would be set against the backdrop of other two storey properties to the east, along Green Ridge. The additional height and mass would be concentrated in the centre of the building, generally aligning with these larger buildings.
5. The front of the building would be defined by a gable wall, which the other projecting elements would appear subservient to. To my mind, this would present a coherent appearance in views along the road. Whilst the rear elevation would be less visible from the surrounding area, it too would have a coherent appearance, defined by the equivalent rear gable wall. The building would be set beneath a pitched roof, and would thus accord with the prevailing roof form found on the properties that surround it. In other regards, the design and fenestration of the extended building would not significantly depart from that found on other buildings along Green Ridge.
6. Considering the rear of the property, I note that the building would extend beyond the building line of both neighbouring properties. However, a substantial proportion of the rear extension is limited to one storey, and a large garden area around it would be retained. The second storey would be set back, and would generally align with the upper floors of No.35. In consequence, the additional height would follow the prevailing pattern of development, and the extended building would not appear visually dominant or overbearing in relation to the rear of either neighbouring property.
7. The extended building would project forward of the front of both No.31 Green Ridge and No.35 Green Ridge, as it does at present. However, I observed that there are other examples of two storey side walls facing on to front gardens, along this part of Green Ridge. In this context, the extensions associated with the remodelling of the front of the building would not result in a visually dominant or overbearing relationship with either neighbouring property.
8. Overall, I consider that the extended building would sit well within its setting, and would not appear unduly large in relation to its surroundings or over-extended, as argued by the Council. Whilst it would occupy a prominent position close to a corner in the road and would be visible from public viewpoints, it would not appear unduly dominant in relation to the surrounding residential properties or the road on to which it would be set.
9. These considerations lead me to the view that there would be no harm to the character and appearance of either the host building or the surrounding area. There is no conflict with saved policy QD14 of the Brighton and Hove Local Plan 2005 ("Local Plan") which requires that, amongst other things, extensions to existing buildings are well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area.

#### *Living conditions*

10. The windows on each ground floor side elevation would face on to the respective side boundaries and would not lead to any material overlooking.

Roof windows would also be installed in the side elevations; however these would follow the plane of the roof, and would not therefore lead to any significant overlooking of neighbouring residential properties. New windows at first floor level would face on to the street, however this is a public area that is already overlooked, and no harm would arise in this regard.

11. New windows would be installed in the rear elevation at first floor level, set back above the ground floor extension. These would indirectly overlook the gardens of both neighbouring properties. However, I observed that the respective neighbouring gardens are already overlooked, albeit at a distance, from upper floor residential windows in the surrounding area. Consequently, there would be no material harm through the additional overlooking arising from the new rear facing first floor windows.
12. Whilst the single storey rear extension projects beyond the equivalent rear elevation of both neighbouring properties, its limited height means that it would not compromise the light or outlook from either of these neighbouring buildings, or their gardens. The extended area to the front of the building would be of a limited projection, and would not lead to a material loss of light or outlook to either neighbouring property. The additional height and bulk associated with the additional storey is concentrated in the centre of the building, where it would broadly align with the residential properties located along Green Ridge. These considerations lead me to the view that the development as a whole would not lead to any material loss of light or outlook for neighbouring residents, when within their properties or gardens.
13. A daylight and sunlight report was provided with the application which concludes that the proposals are compliant with the relevant Building Research Establishment Guidance. Whilst the Council dispute the findings of this report, arguing it is incomplete and based on limited information, I consider that the proposal is sited a sufficient distance away from windows and external amenity space in neighbouring properties and would not result in any material harm to the levels of sunlight and daylight received in these areas.
14. I therefore conclude that there would be no harm to the living conditions of occupants of surrounding residential buildings in respect of overlooking, daylight and sunlight or outlook. There is no conflict with saved policy QD27 of the Local Plan which requires that, amongst other things, proposed development must not cause loss of amenity to existing residents.

### **Conditions and Conclusion**

15. Conditions are necessary in the interests of compliance with statutory requirements relating to commencement of development [1] and certainty [2]. A condition is also necessary to ensure that the appearance of the development is appropriate in the context of the wider area [3]. Given that the proposal involves the extension of an existing dwelling, it would not be reasonable to remove any permitted development rights that the property already benefits from.
16. For the reasons given above and having had regard to all other matters raised the appeal should succeed.

*Neil Holdsworth*

INSPECTOR





## Appeal Decision

Site visit made on 3 July 2018

by **N A Holdsworth MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23<sup>rd</sup> July 2018

**Appeal Ref: APP/Q1445/W/18/3194601**

**Berkeley Court, Derby Court and Warwick Court, 47, 49 and 51 Davigdor Road, Hove, BN3 1RA.**

- 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 David Mills of Brighton and Hove Securities Ltd against Brighton & Hove City Council.
- The application Ref BH2017/01951, is dated 8 June 2017.
- The development proposed is erection of additional storey on each of Berkeley Court, Derby Court and Warwick Court to provide for a total of three additional flats (one above Berkeley Court, one above Derby Court, and one above Warwick Court).

### Decision

1. The appeal is dismissed and planning permission for erection of additional storey on each of Berkeley Court, Derby Court and Warwick Court to provide for a total of three additional flats (one above Berkeley Court, one above Derby Court, and one above Warwick Court) is refused.

### Main Issues

2. The main issues are
  - The effect of the proposal on the character and appearance of the area;
  - The effect of the proposal on the living conditions of nearby residential properties with particular regard to outlook and privacy; and
  - Whether or not the proposed residential accommodation is of a sufficient size to provide satisfactory living conditions for future occupants.

### Reasons

#### *Character and appearance*

3. The site is comprised of three apartment blocks. Berkeley Court is 3 storeys in height, whilst Derby Court and Warwick Court rise to 4 storeys. The buildings share a consistent front building line, helping to provide a visual transition between the 2 storey buildings along Davigdor Road, and Richmond Court, which at 6 storeys in height appears as a landmark building on the junction between Davigdor Road and Osmond Road.

4. The proposed development involves the construction of a single storey, flat roofed addition to the top of each apartment building. However, unlike an earlier appeal proposal<sup>1</sup>, the parapet wall that would surround the roof extension would be of a very low height. In consequence, there would be no effective screen around each additional storey, and the bulk and mass of each extension would be highly exposed, particularly in views from Davigdor Road.
5. In this regard, the proposed extensions would have a bulky appearance that differs significantly from the recessed sixth floor of Richmond House, which appears to be screened behind a large parapet wall. In consequence, whilst they would be set back from the edge of the roof, due to their height and mass each extension would appear unduly dominant in views from the adjacent road. In each case, the extension would compete with the remainder of the building for visual attention, and a subservient visual relationship would not be achieved.
6. Furthermore, I note that the extension on top of Berkeley Court would be sited forward of the equivalent extensions on Derby Court and Warwick Court. This would diminish the visual consistency currently exhibited by this group of buildings. The relative prominence of this extension would further exacerbate the harm that arises through its bulk, in relation to the remainder of Berkeley Court.
7. These considerations lead me to the view that the proposed extensions would appear unduly dominant in the context of each individual building. Furthermore, the visual prominence of each extension means that the development as a whole would not achieve a successful visual transition between the houses to the west along Davigdor Road, including no.53, and Richmond Court. The proposed development would therefore lead to harm to the character and the appearance of the area.
8. In coming to this view I have taken in to account the findings of the previous planning Inspector. I note that the revised proposal seeks to address the concerns about the siting and bulk of the extensions, and its effect on the living conditions of neighbouring residents. However, the revised design raises a different set of issues, primarily arising from the low height of the parapet wall, as considered above. Whilst in views from the rear the development would have a more symmetrical and aligned appearance, it would result in harm of a different character in views of the site from Davigdor Road.
9. I therefore conclude that the proposed development conflicts with policies CP12 of the *Brighton and Hove City Plan Part One 2016* and saved policy QD14 of the *Brighton and Hove Local Plan 2005* ("Local Plan") which, amongst other things, requires that extensions to existing buildings are well designed, sited and detailed in relation to the property to be extended, adjoining properties and the surrounding area.

*Living conditions (existing residents)*

10. In the case of the third floor west facing windows in Derby Court within the front flat, the extension on top of Berkeley Court would replace what is currently an open outlook across an area of flat roof with a blank flank wall a few metres away. The affected windows appear to serve habitable rooms. The

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<sup>1</sup> APP/Q1445/W/16/3150984

proposal would also diminish the outlook from the west facing bedroom of the rear third floor flat. I note that the extension would be brought closer to Derby Court than the previous proposal. I consider that the loss of outlook and overbearing effect to the rooms identified above would amount to material harm to the living conditions of the respective residential occupants.

11. In the case of the fourth floor west facing windows in Richmond Court, the extension on top of Warwick Court has now been set back to a point where the closest kitchen window in Richmond Court would retain some outlook towards the south west. However, the outlook towards the north west from this window would still be diminished. Furthermore, its bedroom would still face on to a blank flank wall, albeit set further back from the window in question due to the L shaped design of the extension. I consider that the outlook to the fourth floor west facing rooms in Richmond Court would also be obstructed to an unacceptable degree, under these revised proposals.
12. The previous planning Inspector also noted that as a consequence of the limited distance between the sides of the four blocks of flats (including Richmond Court), many of the existing side facing windows within these blocks of flats experience limited light. However, each side facing parapet wall has now been lowered in height and, in each case, the extension would be now be set back a reasonable distance from the side of the roof. In consequence, with the exception of the windows in Derby Court and Richmond Court discussed above, none of the other windows within this group of four flats would experience a material loss of light or outlook, or any overbearing effect as a consequence of this development.
13. Considering the area to the rear of the site, including the properties along Colbourne Road and Osmond Road and their gardens, in the case of Warwick Court and Derby Court the proposed roof extension has been significantly reduced in size, and would now only occupy the front part of the roof on each respective building. The parapet wall has also been reduced in height. In consequence, the extensions and their rear facing windows would not appear visually intrusive or overbearing from these nearby properties or their gardens, and there would be no material harm through overlooking (perceived or actual), or loss of light. In my view, the re-siting of the extensions means that in this regard the issues identified by the previous planning Inspector have been addressed.
14. To conclude on the matter of living conditions, I consider that the proposal would lead to unacceptable harm to the west facing third floor flats in Derby Court and the west facing fourth floor flat in Richmond Court due to the close proximity of the respective roof extensions, and the loss of outlook and overbearing effect this would create. This would conflict with policies QD14 and QD27 of the Local Plan which requires that, amongst other things, development must not lead to material nuisance and loss of amenity to adjacent residents. In all other regards however the proposed development would not lead to material harm to the living conditions of surrounding residents, including their outlook and privacy.

*Living conditions of future occupiers*

15. The Council argue that the flat being constructed on top of Warwick Court would measure 43.5 sqm. It maintains that, due to the size of bedroom, the unit would be potentially occupied by two people and therefore fails to achieve

the 50 sqm standard set out in government's *technical housing standard – nationally described space standard* ("NDSS") for a 1 bedroom, 2 person flat.

16. Whilst the unit would not meet the relevant NDSS, it would benefit from a large open plan area facing on to a balcony, which would provide external amenity space. Each room would benefit from a good standard of natural light. I consider that this apartment would provide desirable living accommodation, and its compact size and area of internal corridor is not a significant flaw in its design.
17. The Council also raise concerns about the large amount of corridor and lobby space within the proposed flat above Derby Court. However this would otherwise be a large unit with reasonably sized rooms, and the living conditions within it would be acceptable. Overall I consider the accommodation provided, including the flat above Warwick Court, would provide an acceptable standard of living accommodation for future occupiers and there is no conflict with saved policy QD27 of the Local Plan which, amongst other things, seeks to ensure that new development does not cause a loss of amenity to its proposed residents.

#### *Other Matters*

18. The proposal would deliver three additional housing units, helping to increase the supply of housing within the City. Outside amenity space, cycle parking and sustainability features would be provided, in accordance with other development plan policies identified in the appeal statement. The units would provide good quality living conditions and would be located close to the city centre, in a sustainable location close to amenities and public transport links.
19. These considerations weigh in favour of the development. However, they are not, even cumulatively, sufficient to overcome the conflict with development plan policies on two out of the three main issues in this appeal. The Council maintain that it can demonstrate a five year housing land supply and the appellant does not provide evidence to dispute this. The proposal does not accord with the development plan and the presumption in favour of sustainable development, as set out in the National Planning Policy Framework, does not therefore apply.

#### **Conclusion**

20. I have found that the proposed residential accommodation is of a sufficient size to provide satisfactory living conditions for future occupants. However, the proposal would lead to harm to the character and appearance of the area, and would also result in harm to the living conditions of existing residents through an unacceptable loss of outlook. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

*Neil Holdsworth*

INSPECTOR