




**Brighton & Hove  
City Council**

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>12 September 2018</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<p><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</p> <p><b>Co-opted Members:</b> Conservation Advisory Group Representative</p>
Contact:	<p><b>Penny Jennings</b> Democratic Services Officer 01273 291065 planning.committee@brighton-hove.gov.uk</p>

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## AGENDA

### 37 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.*

### 38 MINUTES OF THE PREVIOUS MEETING

1 - 22

Minutes of the meeting held on 15 August 2018

### 39 CHAIR'S COMMUNICATIONS

## PLANNING COMMITTEE

### 40 PUBLIC QUESTIONS

**Written Questions:** to receive any questions submitted by the due date of 12 noon on 6 September 2018.

### 41 PLANNING ENFORCEMENT ANNUAL REPORT 2017/2018 23 - 28

Contact Officer: Robin Hodgetts Tel: 01273 292366  
Ward Affected: All Wards

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

### 43 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 BH2018/01016 - Former Site Of North District Housing Office, Selsfield Drive, Brighton - Full Planning 29 - 72

Demolition of former neighbourhood housing office, housing store and garages (retrospective) and the erection of a 7 Storey over lower ground floor building, comprising of 30no residential dwellings (C3) with associated hard and soft landscaping, works to provide public realm, private and community amenity space, car parking and relocation of existing UK Power Networks electricity sub-station.

**Recommendation – Minded to Grant**

*Ward Affected: Hollingdean & Stanmer*

### B BH2017/02333 - 113-115 Trafalgar Road, Portslade - Outline Application All Matters Reserved 73 - 94

Outline application with all matters reserved for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping.

**Recommendation - Minded to Refuse should the S.106 not be completed by 04 Jan 2019**

*Ward Affected: South Portslade*

## PLANNING COMMITTEE

### MINOR APPLICATIONS

- C BH2018/00648b - 6 Cliff Approach, Brighton - Full Planning 95 - 112**  
Demolition of existing single dwelling and erection of 2no. two bedroom flats & 2no. three bedroom flats.  
**Recommendation - Grant**  
*Ward Affected: Rottingdean Coastal*
- D BH2017/04220 - 14 Tongdean Road, Hove - Full Planning 113 - 132**  
Demolition of existing bungalow and erection of new building comprising of three 2no bedroom flats and one 3no bedroom maisonette.  
**Recommendation - Grant**  
*Ward Affected: Hove Park*
- E BH2018/00224 - 56 Church Road, Hove - Full Planning 133 - 146**  
Change of use of basement from retail (A1) to fitness studio (D2).  
**Recommendation - Grant**  
*Ward Affected: Central Hove*
- F BH2018/01854 - 33 Braybon Avenue, Brighton - Householder Planning Consent 147 - 154**  
Erection of Single Storey Rear Extension  
**Recommendation - Grant**  
*Ward Affected: Patcham*

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

### INFORMATION ITEMS

- 45 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS 155 - 156**  
(Copy Attached)
- 46 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE 157 - 158**  
(copy attached).

## PLANNING COMMITTEE

### 47 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES

There are no new hearings or inquiries to report

### 48 APPEAL DECISIONS

159 - 202

(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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#### 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).



**BRIGHTON & HOVE CITY COUNCIL**

**PLANNING COMMITTEE**

**2.00pm 15 AUGUST 2018**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Cattell (Chair), Gilbey (Deputy Chair), Inkpin-Leissner, Littman, Miller, O'Quinn, Marsh, Page, Taylor and Wares

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

**Officers in attendance:** Nicola Hurley (Planning Manager), Jonathan Puplett (Principle Planning Officer), Gareth Giles (Principal Planning Officer), Sarah Collins (Principal Planning Officer), David Farnham (Development and Transport Assessment Manager), Hilary Woodward (Senior Solicitor) and Tom McColagn (Democratic Services Officer)

**PART ONE**

**24 PROCEDURAL BUSINESS**

**24a Declarations of substitutes**

24.1 Councillor Taylor was in attendance as a substitute for Councillor Hyde, Councillor Wares was in attendance as a substitute for Councillor Theobald, Councillor Page was in attendance as a substitute for Councillor Mac Cafferty, and Councillor Marsh was in attendance as a substitute for Councillor Morris

**24b Declarations of interests**

24.2 The Chair stated that she had received emails from residents regarding BH2018/01445 and BH2018/01645. She also stated that she had worked with the applicant for BH2018/01645 around 6 or 7 years ago on a scheme for the same site which was refused. She confirmed that she had had no involvement with the applicant since that time and had had no input on the proposal being considered by the Committee and that she came to the meeting with an open mind.

24.3 Councillor Taylor declared that he had received emails regarding BH2018/01445 and stated that he came to the meeting with an open mind.

24.4 Councillor Inkpin-Leissner stated that he had objected to BH2018/00316 as a local Ward Councillor and would leave the room for the consideration of the application.

**24c Exclusion of the press and public**

24.5 There were no part two items.

**25 MINUTES OF THE PREVIOUS MEETING**

25.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 18 July 2018 as a correct record.

**26 CHAIR'S COMMUNICATIONS**

26.1 The Chair noted that Gareth Giles, Principle Planning Officer, was leaving the Council and thanked him for all of his hard work with the Planning Team.

**27 PUBLIC QUESTIONS**

27.1 The Chair invited Mr Hall to ask his question:

“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?”

27.2 The Chair responded:

“The Town and Country Planning (Development Management Procedure) (England) Order 2015 is the relevant legislation that prescribes how planning applications must be publicised. The application for the Pavilion Tea Rooms, Hove Park was publicised in accordance with those statutory requirements. Although we do go further than some equivalent local authorities who have stopped sending letters to residents.

“Two site notices were displayed, one on Old Shoreham Road and one within the park close to the existing café building which is in accordance with the Development Management Procedure.

“It is considered that sufficient publicity is given to planning applications and was in the case of the café in Hove Park. Statutory requirements are met and full details of all applications required can be found on the Council’s website, including a facility to view and be alerted by ward.

“The weekly list of applications was sent to the ward councillors in the normal way and every councillor has the right to call in a planning application within three weeks of advertising the application. We have no plans to extend this.”



27.3 Mr Hall stated that he felt the correct process had not been followed with regards to application BH2017/02805 as his Ward Councillors had informed him that they had not been aware of the application and because of this failure, three trees including an elm had been lost. He stated that the application referenced in his question was tied to application BH2018/01445 which was due to be considered by the Committee. He felt that it would be inappropriate for Members to determine this application while his complaint had not been formally resolved as this would essentially amount to dismissing his concerns as the matters were so closely linked. He reminded the Committee that the decision to grant planning permission was intractable and that they would not be able to change the decision if the ongoing investigation found fault with the Council's process. He called on the Chair to defer consideration of BH2018/01445 until the issues relating to BH2017/02805 had been resolved.

27.4 The Chair responded that she was aware of Mr Hall's complaint and that it had been escalated to stage 2. She stated that the Planning Committee had a duty to determine the applications before it and that she was not prepared to defer consideration of BH2018/01445 as it was completely separate from BH2017/02805.

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

28.1 The Principal Planning Officer introduced the report which detailed a request to vary the Heads of Terms of a Section 106 agreement signed in connection with planning application BH2015/02917, in order for affordable housing to be secured by way of a commuted sum in conjunction with on-site provision of 15 shared ownership units of a mix of unit sizes.

28.2 In response to Councillor Page, Officers confirmed that the commuted sum would be used by the Council to provide affordable rented accommodation.

28.3 Councillor Miller asked if officers had considered using construction costs or house prices to index commuted sums as these rates were often higher than other measures of inflation and reflected that the sums were to be used to acquire or build new properties.

28.4 The Legal Adviser stated that the Construction Price Index had been used previously by the Council and officers could certainly investigate using it for indexing of commuted sums.

28.5 In response to Councillor Marsh, Officers stated that the Council's adopted policy sought a mix of tenure in developments but recognised that there may be exceptional reasons why this could not be achieved. Where this was the case it was up to Officers and Members to balance the benefit of the scheme with the harm caused by not having on site provision of affordable units.

28.6 Councillor O'Quinn expressed concern that the affordable units provided as part ownership were going unsold as despite the discount they were still out of the price range of most residents. She felt that developers had to apply for variations because the

affordable houses were still unaffordable and similar requests would continue coming to Committee until the underlying issue was addressed.

- 28.7 Councillor Littman stated that the city was in need of more affordable rented units and that it was regrettable that they would not be provided on site however he was pleased that there would still be affordable units provided on site.
- 28.8 Councillor Miller stated that it would be useful for the Committee to have sight of how the commuted sums were being spent and asked that more information be included in the next Section 106 Annual Update.
- 28.9 On a vote of 9 For with 1 abstention the Committee agreed to vary the s106 agreement.
- 28.10 **RESOLVED:** That the Head of Term be varied 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.
- 29 DEED OF VARIATION TO S106 LEGAL AGREEMENT RELATING TO BH2017/01083 - FORMER CITY COLLEGE, 87 PRESTON ROAD, BRIGHTON**
- 29.1 The Principal Planning Officer introduced the report which detailed 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.
- 29.2 In response to Councillor Littman, Officers stated that the commuted sum offered by the developers should the Council deem no tenure mix onsite to be acceptable was not scrutinised by the District Valuer Service as the proposed number of affordable units at the development met the 40% target set by Council Policy. If the number of affordable units had been less than the 40% target officers would have asked for the District Valuer's opinion.
- 29.3 Councillor Miller asked if Officers had considered seeking an additional s106 contribution as well as the ten shared ownership units. A shared ownership scheme placed less financial burden on the developer and so the variation proposed would benefit the developer.
- 29.4 Officers responded that as the developer was still proposing a level of affordable accommodation which met the Council's 40% target and had demonstrated that none of the Council's social landlord providers wished to take on the rental units it was reasonable to request the variation without an increased s106 contribution.
- 29.5 On a vote of 9 for with 1 abstention the Committee agreed to vary the s106 agreement.
- 29.6 **RESOLVED:** That the Head of Term be varied 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.

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

30.1 There were none

**31 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS****A BH2018/01137 - 76-79 & 80 Buckingham Road, Brighton - Full Planning**

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.

Officer Introduction

- (1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the application related to: 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. Two letters objecting to the scheme had been received as well as one representation commenting on the scheme.
- (2) The Planning Officer also informed Members of some corrections to the report: the recommendation should read '5<sup>th</sup> December 2018' not '2017', the wording of Condition 11 would be updated to the latest asbestos condition wording, the Highways Authority wished to include an additional provision in Condition 23 to request the submission of a car park management plan, and Condition 26 was to be removed as it duplicated Condition 9 and the following conditions would be renumbered accordingly.

Questions to the Planning Officer

- (3) In response to Councillor Miller, the Planning Officer confirmed that the affordable units would all be located in number 76-79 and would consist of a mix of one and two bed dwellings.
- (4) Councillor Wares asked that in light of the two requests to vary s106 conditions on affordable housing provision considered by the committee earlier on the agenda if the Committee could include an additional condition for the developers to approach the Council's social landlord providers before the s106 agreement could be finalised.
- (5) Officers responded that they understood that it was frustrating for Members considering applications as it was difficult to guarantee what was permitted could actually be delivered. However, Officers felt that applying a condition around agreements with social landlord providers would place an unreasonable burden on developers at this stage of

the application process. Officers were also concerned that a condition may be difficult to defend at appeal and there was no precedent that they were aware of.

- (6) The Chair stated that while a condition for approaching the Council's preferred social landlord providers was not included as part of the planning permission Members and Officers were increasingly raising the issue with developers at pre-application briefings.
- (7) Councillor Page welcomed that the developers now proposed to reuse the existing frame of number 80 rather than demolishing it. He asked officers to confirm the tenure mix of the affordable units, how much outside amenity space was being provided, how many car parking spaces were being created and how these were to be allocated.
- (8) The Planning Officer confirmed the location of the communal garden in the development and that each apartment would have a private balcony and that the affordable housing would consist of seven affordable rented units and seven part ownership units.
- (9) The Transport Officer stated that the developer proposed to create eight parking spaces in the basement of number 80 two of which would be disabled spaces. The developer had not yet stated how these spaces would be allocated and an additional condition had been recommended to require the submission of a car parking management plan.
- (10) The Representative from the Conservation Advisory Group asked the Committee to consider including an additional informative which requested the developer reinstate several historic street signs on the surrounding roads.

#### Debate and decision making process

- (11) Councillor Littman stated that he was in favour of the application and that it improved on the previously agreed scheme.
  - (12) Councillor O'Quinn stated that she regularly passed the site and that she felt the proposal would be a positive addition to the area.
  - (13) Councillor Inkpin-Leissner stated that he welcomed the onsite provision of affordable housing and would be supporting the application.
  - (14) Councillor Miller stated the he was pleased that there would be affordable housing on site and that he saw no issue with the additional informative suggested by the Conservation Advisory Group.
  - (15) The Chair praised the much improved scheme which had gone from providing no affordable housing to providing 41% on site affordable housing.
  - (16) The Committee unanimously voted to be minded to grant planning permission.
- 31.1 **RESOLVED:** 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 in the report as amended above (2) including the additional informative recommended by the Conservation Advisory Group (10) **SAVE THAT** should the s106

Planning Obligation not be completed on or before 5th December 2018, the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10 of the report.

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

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.

Officer Introduction

- (1) The Principal Planning Officer, Sarah Collins, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. She stated that the main considerations in determining the application related 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. BH2018/01181 was a reserved matters application which related to BH2017/00492.

Questions to the Planning Officer

- (2) Councillor Wares stated that he was concerned that the titled façade may mean that artificial lighting would be necessary during the day in rooms which would otherwise be adequately lit by natural light through unobscured glazing.
- (3) The Planning Officer responded that the design of the titles allowed enough light to pass through so that most teaching spaces would comply with light requirements for a residential property. The main circulation area was served by a large lightwell.

Debate and decision making process

- (4) Councillor Miller stated that he was disappointed that the canopy which had originally been proposed as an architectural feature tying the campus together had been lost but that this was not enough to warrant refusal.
- (5) Councillor Inkpin-Leissner stated that he was in favour of the application and liked that the design disguised the bulk of the building.
- (6) The Committee unanimous voted to grant planning permission.

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

**C 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 to facilitate enlargement of studio apartment to two bedroom apartment and associated works.

- (1) This application was originally due to be considered by the Planning Committee on 18 July 2018 but was deferred to allow Members to visit the site. Prior to the site visit the application was withdrawn by the applicant.

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

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.

- (1) This application was deferred from the Committee meeting on 18 July 2018 to allow Members to visit the site.

##### Officer Introduction

- (2) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the application related 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. 15 letters objecting to the proposal and one letter supporting the proposal had been received.

##### Debate and decision making process

- (3) The Committee unanimously voted to grant planning permission.

31.4 **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 subject to the Conditions and Informatives detailed in the report.

#### **E 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) This application was deferred from the Committee meeting on 18 July 2018 to allow Members to visit the site and neighbouring properties.

##### Officer Introduction

- (2) The Committee did not wish to have a presentation for this item.

##### Debate and decision making process

- (3) On a vote of 8 for and 2 against the Committee agreed to grant Householder Planning Consent.

31.5 **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** householder planning consent subject to the Conditions and Informatives detailed in the report.

**F BH2017/00574 - 80A Stoneham Road Hove - Full Planning**

Formation of third floor to form 2no bedroom flat incorporating terrace and associated works.

Officer Introduction

- (1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the application related to: the impact of the additional storey on the character and appearance of the building, adjacent locally listed factory building, the wider streetscene, the effect on the amenity of neighbouring residential occupiers, the standard of proposed accommodation, and transport and sustainability issues. The application had been deferred from the Committee meeting on 12 July 2017 to allow officers to clarify the position in respect of previous refusals and appeal decision. Officers had reconsidered the history of the site and negotiated amendments to the scheme.
- (2) The Planning Officer also stated that a letter from Peter Kyle MP had been received requesting that residents' concerns regarding: the character of the area, privacy and the impact of the proposal on the locally listed sweet factory be taken into account. The Highways Authority also recommended that an additional permit free condition should be added to the planning permission should permission be granted.

Public speakers

- (3) Councillor Nemeth spoke in his capacity as a Wish Ward Councillor and stated that the application had failed to address the issues with previous refused applications and residents had raised many of the same concerns. The existing building was already too large and did not suit the character of the area, bulk and height had been mentioned in the previous refusals. The application before the Committee today had been deferred by Committee in 2017 so that the applicant could produce additional images showing how the building would fit within the area which they had failed to do. The neighbouring building was a former Maynard's factory which had been converted into residential units and was locally listed. The proposed addition of a fourth floor would be overbearing to the heritage asset and would cause significant harm to the streetscene.
- (4) In response to Councillor Marsh, Councillor Nemeth stated that he and Councillor Pelzer Dunn had canvassed residents' opinions on the scheme through door knocking and several meetings and they had found significant opposition to the scheme.

- (5) In response to Councillor Miller, Councillor Nemeth stated that he did not feel that the gap between the proposed fourth storey and the sweet factory sufficiently softened its impact. The third floor of 80a was higher than the roof line of the sweet factory and so dominated it in the streetscene. Any addition to this would only exacerbate the issue.
- (6) Mr Michael Pirrie spoke on behalf of the applicant as the architect for the scheme and clarified that Yelo Architects Ltd had not been involved in previous applications for the site. The previous applications were refused due to the Committee's concerns around the loss of daylight and privacy for neighbours. The revised design now included obscured glazing on all windows overlooking neighbours and setting the fourth floor back from the street so as to make it less visible. He stated that as the proposal was only for the creation of a single new dwelling there would not be a significant impact on parking which was view supported by the transport officer in their comments.
- (7) In response to Councillor Wares, Mr Pirrie stated that there would be a slopping roof at the rear of the flat and residents would not be able to use it as a balcony. There was an existing terrace at the front of the building which was currently accessible and used as an emergency escape route.
- (8) In response to Councillor Miller, Mr Pirrie stated that he felt the proposed fourth storey was set far enough back from the street that it would not be visible from the ground and that a high fire wall on the roof of the sweet factory would also conceal it. The impact on the sweet factory and the wider street scene was thus very limited. Mr Pirrie also stated that he had not been aware of the request for the additional image showing the proposal in the wider context of the streetscene and would have been able to provide it.
- (9) In response to the Chair, Officers confirmed that the firewall on the roof of the sweet factory was taller than the proposed fourth storey.

#### Questions to the Planning Officer

- (10) In response to Councillor Miller, the Planning Manager clarified that a formal letter of objection had not been received from Councillor Nemeth and what was referenced in the report was an email he had sent stating his intention to object.
- (11) In response to Councillor Miller, the Planning Officer confirmed that the side window to one of the bedrooms would be blanked off subject to the final design for the neighbouring School Road site being submitted. The room would still be served by two windows to the rear.
- (12) In response to Councillor Wares, the Planning Officer stated that there would be space on the roof that could be used as a balcony but the condition restricting which part of the roof could be used as a balcony was legally binding. The Council would be able to take enforcement action if the roof was used as a balcony.
- (13) In response to Councillor Wares, the Transport Officer confirmed that he had recommended an additional permit free condition to the Committee.
- (14) In response to Councillor O'Quinn, Officers stated that the Council had not currently adopted local space standards but that it was being considered as part of the City Plan



Part Two. Policy did state that a reasonable space standard should be achieved in order to protect the amenity of future residents.

- (15) In response to Councillor Inkipin-Leissner, Officers stated that 1.8m was the standard height for a privacy screen but they conceded that some people would still be able to see over the top and stated that members could require a higher screen be installed.
- (16) In response to Councillor Gilbey, the Planning Manger confirmed that the heritage officers had not commented on the application. She stated that this could be because the design had been deemed acceptable by the Planning Inspector at appeal for a previous application although the overall appeal was dismissed.
- (17) In response to Councillor Littman, the Planning Manager stated that it was open for Members to go against previous decisions if they felt there had been a substantial change in policy since those decisions had been taken.

#### Debate and decision making process

- (18) Councillor Miller stated that he was not comfortable with the application as he felt it would have a negative impact upon the existing residents in the building. He also had concerns about the relationship between the proposal and the approved development on School Road.
- (19) Councillor Littman felt that the proposal did meet the expectations set by CP12 Urban Design in the City Plan Part One that new developments should raise the standard of architecture in the area and establish a strong sense of place.
- (20) Councillor O'Quinn echoed the previous comments and stated that she could not see how the proposal would improve the area especially when keeping in mind the neighbouring locally listed building.
- (21) Councillor Wares stated he did not feel that the application was a meaningful improvement to the previously refused one and that it would not improve the area.
- (22) Councillor Inkipin-Leissner stated that while he was pleased that the applicant had taken steps to work with officers to improve the application he felt it was still contrary to Council Policy and would dominate the neighbouring locally listed heritage asset.
- (23) The Chair stated that she was not convinced the applicant had successful addressed the issues with previous applications.
- (24) On a vote of 1 For and 9 Against with no abstentions the Committee refused planning permission.
- (25) Councillor Littman proposed that the application be refused on the following grounds:
  - 1. That the application failed to follow CP 12 in not establishing a strong sense of place or raising the standard of architecture and design in the city.
  - 2. That the proposed structure was of an inappropriate height, scale, bulk and design and would be overbearing to a locally listed building.

3. That the application would have a negative impact on the visual amenity of neighbours.

(26) Councillor Miller seconded the motion.

(27) The Chair called a vote on the proposed alternative recommendations. This was carried with Councillors Gilbey, Inkpin-Leissner, Littman, Marsh, Miller, O'Quinn, Taylor, Wares and Cattell voting For and Councillor Page voting Against.

18.6 **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 (25) above.

#### **G BH2018/00329 - 67 Falmer Road, Rottingdean - Removal or Variation of Condition**

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 too permit amendments to the approved drawings including landscaping, elevations and boundary treatments.

##### Officer introduction

- (1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. A previous application for demolition of the existing house and garage and erection of 9 no. four bedroom houses had been allowed on appeal after initially being refused. He stated that the main considerations in determining the application related to whether circumstances, policy or practice had changed sufficiently enough for the extant permission and the Inspector's comments on the prevailing character, design and neighbour amenity to no longer apply. Four letters of objection had been received and Councillor Mears had objected to the scheme in her capacity as a Local Ward Councillor.
- (2) The Planning Officer stated that an additional late representation had been received objecting to the development and that the County Ecologist's had raised no objection to the application but their comments had been omitted from the report in error.

##### Public speakers

- (3) Mr Duncan Howie spoke in his capacity as a local resident objecting to the application. He stated that the developer had built plans outside of the permission already having failed to obscurely glaze front facing windows which overlooked neighbours and had been originally shown as obscurely glazed. The developers had stated that the need to vary the application was to accommodate disabled access something which according to the Developer the original proposal already allowed. The developer had either breached or not yet shown compliance with any of the conditions attached to the extant permission. He called on the Committee to refuse the application and stated that the Planning Inspector had placed conditions on the permission for a reason and the Developer should not be allowed to pick and choose which to comply with.

- (4) Councillor Mears submitted a written representation objecting to the application:

“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 too 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.”

#### Questions to the Planning Officer

- (5) In response to Councillor Wares, the Planning Officer confirmed that condition 12 referenced the protection of trees and hedges at the site during construction. Officers also confirmed that some trees which should have been protected were not and had sustained damage although were not thought to be at risk of being lost.
- (6) In response to Councillor Wares, the Planning Officer confirmed that the application was now retrospective but was not at the time that it was made. The position or number of the dwellings had not changed and the application followed several enforcement visits.
- (7) Councillor Wares asked that in light of the developer’s apparent disregard for conditions in the past how could the Committee have any confidence that any new conditions would be complied with.
- (8) The Planning Officer responded that Members and officers could only make a decision on the application in front of them and had to do so with an open mind. The Council had a Planning Enforcement Team and it was up to them to take action should a developer not comply with conditions.
- (9) In response to the Chair, the Legal Adviser stated that the Council could use an enforcement notice to require compliance with a condition or could serve a breach of condition notice. Non-compliance with a breach of condition notice was a criminal offence and would be a swifter remedy than an enforcement notice to enforce conditions.
- (10) Councillor Miller stated that he would be keen for the Council to exercise its powers to enforce conditions more robustly in the future. He asked officers to confirm what aspects of the landscaping had changed.

- (11) The Planning Manager stated that part of the enforcement process was negotiating with developers and seeking to regularise a breach with an application to vary permission. If a developer continues work before a variation is granted they do so at their own risk.
- (12) The Planning Officer confirmed which existing trees the developer proposed to retain and where new trees would be planted. Two hedges which should have been retained were removed and the landscaping plan proposed to reinstate them in addition to erecting acoustic fencing along the vehicle access.
- (13) In response to Councillor Miller, the Planning Officer stated that he could not confirm all of the changes to the landscaping plan from the one approved by the Planning Inspector and stated that an additional condition could be added requiring the submission of a more detailed landscaping plan.
- (14) In response to Councillor Marsh, Officers stated that they would not recommend a condition that was not enforceable. If conditions were breached the Planning Enforcement Team would take appropriate action.
- (15) In response to Councillor Marsh, the Legal Adviser clarified that previous breaches of conditions was not a ground on which an application could be refused.
- (16) In response to Councillor Littman, the Planning Officer stated that the Planning Inspector's condition only protected trees during construction and not in perpetuity. Officers also confirmed that any differences between the original landscaping plan and the new one had already been actioned. Officers suggested that the Committee may want to request that the applicant produce a more detailed tree plan.
- (17) The Chair also responded to Councillor Littman that as the provision of a bin store was conditioned but not shown on the site plan this condition could be strengthened so that the site could not be occupied until developers had confirmed how this would be achieved.
- (18) In response to Councillor Gilbey, Officers stated that the trees at the back of the site had been removed and that officers would look to secure mature trees to replace them rather than saplings.
- (19) In response to Councillor Wares, the Planning Officer stated that the changes to the exterior of the houses resulted from the developer rearranging the interior which may have been to better accommodate individuals with mobility difficulties.
- (20) The Chair reminded the Committee that the question they were considering was whether the application in front of them was acceptable.

#### Debate and decision making process

- (21) Councillor Miller stated that he would not be supporting the officer's recommendation. He stated that he had no issues with the change to the elevations but that the changes to landscaping and the removal of previous retained fully grown trees would have a negative impact upon the neighbours' amenity.

- (22) Councillor Inkpin-Leissner stated that he was displeased by the Developer's actions and felt the Council should have been stronger in its enforcement of the conditions.
- (23) Councillor Littman stated that while the application appeared straightforward he was concerned that the committee was rubber stamping vandalism of the ecology on the site and that he was not convinced that the Committee had enough information on which to base a decision. He understood his colleagues' desire to vote against the application as the Council did not want to encourage this behaviour from applicants but was concerned that refusal would prove difficult to defend.
- (24) Councillor Page stated that robust conditions had been suggested which built on good work by the Planning Enforcement Officers. He agreed with Councillor Littman about the seriousness of breaches of condition but stated that the variations were relatively minor and he would be supporting the officer's recommendation.
- (25) Councillor O'Quinn stated that the two trees had already been lost and that they would be replaced by mature trees. She did not feel the change in design was a concern.
- (26) Councillor Gilbey stated that she would be supporting the officer's recommendation and requested that a condition be added to obscurely glaze the two new side windows.
- (27) The Chair stated that the Committee could not punish applicants and must make a judgement on the application before them.
- (28) On a vote of 4 For, 5 Against with one abstention the committee refused permission.
- (29) Councillor Miller proposed that the application be refused on the following grounds:
1. That the change to the landscaping plan was overbearing and resulted in overlooking into neighbouring gardens.
- (30) Officers stated that the Planning Inspector had not conditioned that the trees on the boundary be retained and that it may be difficult to argue this as a ground for refusal should the applicant appeal. Officers also stated that the Planning Inspector would consider whether grounds for refusal could have been reasonably remedied through an additional condition which would have allowed for permission to be granted such as conditioning that mature trees be planted on the boundary.
- (31) Councillor Miller stated that he disagreed with the officers and believed that his motion provided adequate grounds on which to refuse the application.
- (32) Councillor Wares seconded the motion.
- (33) The Chair called a vote on the proposed alternative recommendations. This was carried with Councillors Inkpin-Leissner, Marsh, Miller, Taylor and Wares voting For, Councillors Gilbey, O'Quinn, Page and Cattell voting Against with Councillor Littman abstaining.
- 31.7 **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 Miller detailed in paragraph (29) above.

**H BH2018/00972 - Wickenden Garage, Scott Road, Hove - Full Planning**

Formation of 1no two bedroom flat (C3) on top of existing garage (B1)

Officer introduction

- (1) The Committee did not wish officers to give an introduction.

Debate and decision making process

- (2) The Chair called a vote and the Committee unanimously voted to refuse planning permission.

31.8 **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **REFUSE** planning permission for the reasons detailed in the report.

**I BH2018/01545 - Land adjacent 7 Belle Vue Cottages, Brighton - Outline Application All Matters Reserved**

Outline application with all matters reserved for the erection of 1no two storey dwelling (C3) to adjoin existing dwelling at 7 Belle Vue Cottages.

Officer introduction

- (1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to location plans, indicative elevational drawings, indicative floorplans and photographs. He stated that all matters were reserved and therefore the main consideration in the determination of the application related to the principle of the development of a 1 no. two storey dwelling (C3) at the site. Nine representations had been received objecting to the scheme.

Questions to the Planning Officer

- (2) Councillor Miller noted that other buildings appeared to be being extended on the road which suggested the principle of building between plots in the area had been established and asked what schemes had been given permission on the road.
- (3) The Planning Officer stated that they had no record of any applications being made on the road apart from BH2018/01545 and that if work was being done it either did not need permission or was being done without permission. Officers suggested the Planning Enforcement would need to investigate.
- (4) Councillor Miller noted that a first storey window was being lost and asked what this served.
- (5) The Planning Officer stated that the window was from the donor house and so the applicant had accepted the loss.

Debate and decision making process

- (6) Councillor Wares stated that he was concerned about the precedent which was being set by the application and understood the fears neighbours had raised in their objections. For this reason he would not be supporting the Officer's recommendation.
- (7) Councillor Page stated that it was an unusual site and the application represented a logical use of space to provide more housing in the city. He did not feel that the application would significantly change the character of an area.
- (8) On of vote of 8 For and 2 Against the Committee agreed to grant planning permission.
- 31.9 **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives detailed in the report.

**J BH2018/01445 - Hove Rugby Football Club, Hove Recreation Ground, Shirley Drive - Full Planning**

Erection of single storey side and rear extension incorporating formation of first floor side balcony

- (1) The Chair noted that a request to speak had been received after the 5pm Friday deadline. The Chair also noted the requests to defer consideration of the application which had been made by a neighbour and the public questioner earlier. The Chair called a vote to defer the application. The Chair then asked those Members who had indicated that they wished to defer consideration of the application to suggest a ground on which the application could be deferred. When no grounds were proposed the Chair suggested that the Principle Planning Officer give a presentation.

Officer Introduction

- (2) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the application related 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. 14 letters of objection were received objecting to the proposal.

Questions to the Planning Officer

- (3) In response to Councillor Gilbey, the Planning Officer stated that the application would not impact on any of the existing facilities at the club.
- (4) In response to Councillor Miller, Officers stated that the usual process for the public to make a representation at Committee was for them to contact the Clerk to the Committee to register by 5pm the Friday before the meeting. Objectors were only advised that an application was coming to committee if they had stated that they wished to address the Committee in their objection. Otherwise objectors were not contacted prior to an

application being considered by Committee. Officers confirmed that the processed had been followed.

- (5) In response to Councillor Page, the Planning Officer confirmed that condition 2 referred to all usage of the balcony licensable or otherwise.
- (6) In response to Councillor O'Quinn, the Planning Officer stated that the balcony was around 60m<sup>2</sup> and additional conditions could be added to restrict the brightness of any lighting.
- (7) The Transport Officer stated in response to Councillor O'Quinn that there was a lack of information about traffic impact in the application. However there was agreement that the area would come under a controlled parking zone following the first stage of consultation. The form of the parking controls was not yet known but it was proposed that the free street parking which ran alongside Hove Recreation Ground was to be retained. In this context the Planning Officer concluded that while the balcony may attract more visitors the impact on traffic was not likely to be severe.
- (8) Officers suggested that an additional condition requiring the applicant to put in place measures to restrict unsupervised access to the balcony in response to Councillor O'Quinn's and Councillor Miller's concerns about the potential of it attracting anti-social behaviour.
- (9) In response to Councillor Inkipin-Leissner, the Planning Officer stated that there was no proposed wheelchair access to the balcony.

#### Debate and decision making process

- (10) Councillor Miller stated that the proposal would provide a good facility for the rugby club and may encourage more participation in sport. The club house was a significant distance from the neighbouring properties and he felt that there would not be a significant additional impact on them. He stated that living next to a park was a privilege and it was unreasonable to expect it not to be used.
- (11) Councillor O'Quinn stated that while she was not pleased by the proposed terrace she agreed with Councillor Miller that it was a heavily used club which had invested in the area.
- (12) Councillor Taylor stated that it was regrettable the impact the application would have on the neighbours and that it was regrettable that they had not been able to address the Committee.
- (13) Councillor Page stated that Hove Rugby Football Club was a popular club which should be supported. The clubhouse was a long way from neighbours especially when compared to other areas of the city and if there were noise complaints these should be dealt with through the appropriate Council team.
- (14) Officers confirmed that additional conditions requiring additional security to prevent access to the balcony and to limit the brightness of lighting would be added should permission be granted.



(15) On a vote of 9 For with one abstention planning permission was granted.

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

**K BH2018/01645 - 7 Marine Close, Saltdean - Householder Planning Consent**

Erection of two storey side extension and single storey rear extension. Roof alterations including relocating dormer and installation of rooflights and revised fenestration.

Officer introduction

(1) The Committee did not wish officers to give an introduction

Debate and decision making process

(2) On a vote of 9 For Committee agreed to grant planning permission.

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

*Councillor Miller was not present for the consideration of BH2018/01645*

**L BH2018/00316 - 15 Twyford Road, Brighton - Full Planning**

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.

Officer introduction

(1) The Principal Planning Officer, Gareth Giles, introduced the application and gave a presentation by reference to plans, elevational drawings, photographs and floor plans. He stated that the main considerations in determining the 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. 53 letters objecting to the scheme had been received and Councillors Hill and Inkpin-Leissner had also objected in their capacity as Local Ward Councillors. One further letter of objection had been received following the re-advertisement of the proposal. One representation had also been received which reported that work had already commenced.

Public Speakers

(2) Councillor Hill provided a written representation:

“I’ve received complaints from residents of Twyford Road about the application and the fact that work started on the property before the decision has been made. As detailed in

the committee paper, there have been over 50 objections to this application, demonstrating the increasingly strong feelings about HMO proliferation in Coldean. A large number of objections were also made to a similar application at 12 Twyford Road which was approved at last month's planning committee.

"In addition to these, there are applications for infill development on either side of the entrance to Twyford Road, both of which are being made by HMO developers. And there are numerous other applications in the general area. One nearby property in particular has generated a great deal of frustration because although the application was only for 6 occupants, it was clear right at the beginning of the building works that there was an intention to house up to nine. Residents feel misled by these applications which do not accurately state the intentions of the developers.

"15 Twyford Road is a terraced house originally intended as a family home. If planning permission is given, there will be six people living there all leading independent lives, cooking separate meals and coming and going at separate hours. This will cause noise and disturbance to neighbours even if the occupants are not particularly noisy, because the house just isn't designed for this many independent people. While currently the 10% threshold has not been met, it is likely that it soon will be from the increased number of HMO developments Coldean is currently seeing. Aside from the threshold, the impact of a six-person HMO in this small road, alongside the other HMO which has just been approved, will be felt by residents.

"I hope the committee will take all these views into consideration."

#### Questions to the Planning Officer

- (3) In response to Councillor Marsh, Officers stated that proposals to change Council policy around Houses in Multiple Occupation were in the very early stages and it was not yet possible to say whether new policy would contraindicate the application.
- (4) In response to Councillor Marsh, Officers confirmed that two of the 43 dwellings within 50m of the site were Houses in Multiple Occupation.
- (5) In response to Councillor Marsh, Officers stated that applications were taken on a first come first serve basis and pending applications were not considered when calculating the number of Houses in Multiple Occupation in an area.
- (6) In response to Councillor Gilbey, Officers confirmed what bathroom facilities were proposed at the property.

#### Debate and decision making process

- (7) Councillor Page stated that he would like to pay tribute to Councillor Hill's work around Houses in Multiple Occupation and engaging community groups in a constructive way. The number of student properties in Coldean was impacting upon the viability of local schools and negatively impacting the community and was a warning for other areas of the city.

- (8) Councillor Taylor stated that he regretted the loss of a family home and the knock on effect this would have on the community and that it was unfortunate that planning policy did not offer many options to refuse the application.
  - (9) Councillor O’Quinn echoed the previous comments. She stated that the Committee was compelled to agree the proposal by Council policy and that previous refusals had been allowed on appeal.
  - (10) Councillor Gilbey stated that she would not be supporting the proposal as a similar application for 25 Wheatfield Way had been refused permission and the appeal had been dismissed on appeal. The Planning Inspector agreed that there would be significant harm to neighbouring amenity from increased occupancy despite the application meeting space requirements and being within policy.
  - (11) Officers clarified that the application for 25 Whatefield Road was for a large House in Multiple Occupation with up to nine occupants where as BH2018/00316 would have a maximum of four occupants. Loss of neighbouring amenity due to increased occupation was a material planning consideration but was not often upheld by the Planning Inspector.
  - (12) Councillor Marsh stated that she understood the constraints of the policy and that it was regrettable that work on the site had already commenced as this created a bad impression.
  - (13) The Chair called a vote which was tied; 3 For, 3 Against with two abstentions. The Chair then used her casting vote to allow planning permission stating that she regretted the negative impact these applications had but that with current policy and the precedent set by previous decisions made by the Planning Inspectors she felt that refusal could not be defended at appeal.
- 31.12 **RESOLVED:** That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves to **GRANT** planning permission subject to the Conditions and Informatives detailed in the report.

*Councillors Miller and Inkpin-Leissner were not present for the consideration of BH2018/00316*

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

32.1 There were none

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

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

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

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

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

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

**36 APPEAL DECISIONS**

36.1 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 7.30pm

Signed

Chair

Dated this

day of

<b>Subject:</b>	<b>Planning Enforcement Annual Report 2017/2018</b>		
<b>Date of Meeting:</b>	<b>12 September 2018</b>		
<b>Report of:</b>	<b>Principal Planning Officer, Enforcement</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Robin Hodgetts</b>	<b>Tel:</b> 292366
	<b>Email:</b>	<a href="mailto:robin.hodgetts@brighton-hove.gov.uk">robin.hodgetts@brighton-hove.gov.uk</a>	
<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1 During the consultation period undertaken as part of the development of the Planning Enforcement Policy Document (PEPD), Members and the residents expressed an interest in being informed about the progress and outcomes of enforcement investigations. As such, the PEPD requires an annual monitoring report to be presented to the Planning Committee.

**2. RECOMMENDATIONS:**

- 2.1 That Members note the contents of this report.

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 The Planning Enforcement Team investigated an extremely high number of cases and resolved a significant number of breaches of planning regulations during 2017/2018. 595 new cases were received and 601 cases were closed.

This represents the first time since 2013/2014 that more cases were closed than were received and represents an improvement on the previous year, which had an unusually high number of complaints received – 820 in 2016/17 (see table overleaf).

As at the end of the period to which this report relates there were approximately 400 unallocated cases awaiting investigation. As a consequence there are currently 800 cases on hand. This is due to a significant increase in the number of cases received in previous years (largely HMO complaints) which corresponded with a reduced number of officers in the team in 2016/17 and earlier. The Team was subsequently fully staffed in 2017/18 and an additional member of staff recruited for a year following additional funding agreed and provided in 2017-18 (with particular focus on HMOs).

Another reason for the unallocated cases is the amount of allocated cases requiring action and they are taking to resolve. All HMO and Listed Building

cases are currently being treated as a priority and allocated to an Officer and these are generally resource intensive and time consuming to resolve.

3.2 The table below shows a comparison of figures for the previous 5 years.

Year	Cases received	No Breach	Not expedient	Full compliance	Compliance after notice	No reason	Total
2017/2018	595	271 (45%)	126 (21%)	181 (30%)	23 (4%)	n/a	601
2016/2017	820	314 (52%)	82 (14%)	170 (28%)	10 (2%)	28 (4%)	604
2015/2016	576	194 (45%)	69 (17%)	157 (36%)	12 (3%)	n/a	432
2014/2015	666	176 (34%)	91 (17%)	230 (44%)	20 (3%)	n/a	517
2013/2014	658	225 (32%)	178 (26%)	275 (39%)	19 (3%)	n/a	697
2012/2013	755	255 (37%)	95 (14%)	291 (42%)	52 (7%)	n/a	693

3.3 In spite of challenging circumstances, and a high volume of cases, a reasonable level of customer satisfaction was maintained. Six corporate complaints were received in relation to enforcement activity/investigations for the year which is an increase on the three the previous year. One of these was upheld but it was found to cause no injury and did not proceed further.

3.5 During the 2017-2018 period a total of 601 cases were closed after enforcement investigation. In 45% of the cases closed, there was found to be no breach of planning control. This figure has been higher in recent years (since 2015). It is assumed the main reason relates to an increase in awareness of HMO controls by residents and local action groups and the subsequent increase in HMO complaints particularly in the Lewes Road corridor. Most of these are referred to the Enforcement Team with a significant number being established as authorised HMO's and as such not in breach of planning regulations.

3.7 In 21% of cases closed, it was determined that it was not expedient to pursue formal enforcement proceedings, as the breach was minor, not causing unacceptable harm and action not being in the public interest.

3.8 In 30% of cases there were breaches of planning identified which were significant enough to consider action but were resolved through negotiation or the granting of a planning permission instead.

3.9 Where there was found to be a significant breach of planning control, or where development was considered to be causing unacceptable harm, compliance was achieved in 89% of the cases before formal action was required.

3.10 In 4% of all cases closed, compliance was achieved through the issuing of a formal enforcement notice

3.11 Serving an Enforcement Notice is the most common and effective method of remedying unauthorised development where negotiation has failed. The Council is required to be proportionate and reasonable when serving a formal enforcement notice and significant harm must be identified.

- 3.12 Sixty Two (62) formal notices were served in the 2017-18 period, an increase of 19 from the previous year. This comprised fifty five (55) enforcement notices, four (4) Listed Building Enforcement Notices and three (3) Section 215 notices.
- 3.13 Two (2) successful prosecutions (one large HMO, one roof extension) with fines levied of £3000 plus costs and £2000 plus costs.

#### **Enforcement and Listed Building Notices**

- 3.14 Enforcement notices are served against unauthorised development which consists of either a change of use or unauthorised development. A listed building enforcement notice is a very similar notice served only in relation to listed buildings. Those served the notice have a right to appeal against the notice which is then determined by the Planning Inspectorate.
- 3.15 If an appeal is lodged against an enforcement notice, the requirements of the notice are held in abeyance until the appeal is determined by the Planning Inspectorate. Enforcement appeals are currently taking between 12 and 18 months to process.
- 3.16 The Planning Inspectorate will dismiss or allow the appeal and also have the ability to vary the enforcement notice should they feel this necessary. On some occasions they make split decisions – part allowing and part dismissing the appeal.
- 3.17 With most enforcement investigations, every effort is made to negotiate with owners to carry out the required works without formal action becoming necessary.

#### **Section 215 Notices**

- 3.18 Where the condition of land or a building is adversely affecting the amenity of a neighbourhood, the Council may issue a Notice under Section 215 of the Town and Country Planning Act 1990, requiring the owner or occupier to improve the condition of the land or building. Failure to comply with the Notice is a criminal offence. The Council also has powers, where a Notice has not been complied with, to enter the land and carry out the work itself and recover the cost from the owner. Two (2) Section 215 notices were served in the period 2016/2017. This figure is low as most cases relating to this are resolved without the need for a formal notice.
- 3.19 A Section 215 notice can only be appealed in the Magistrates Court. In 2016/2017 no appeals against the service of a 215 notice were made.

#### **Other**

- 3.20 There were no Breach of Condition or Stop notices served, nor were any injunctions applied for.

## **Other achievements**

### **3.21 Modernisation**

Continue to improve Uniform and digital working. The enforcement team work digitally, utilising IT solutions to replace paper files. The Service is currently implementing a mobile working application to allow Officers to take tablets on site visits which will create efficiencies in data management.

Recruitment is currently underway for an additional Enforcement Officer to be added to the team (funded through increased Planning Fee income achieved by the 20 per cent increase in fees introduced in January 2018). This will increase the Team to four permanent officers with a Principal Planning Officer leading the Team.

### **3.22 Field Officer**

Work has continued to provide support and training for the Field Officer programme with a number of functions and tasks identified that will be carried out by them, with support of the Enforcement Team. The whole team has been involved with helping to shape this new role. Identified functions include work to control estate agent boards and to improve the condition of land or buildings which have fallen into disrepair along with assistance and site visits to assist the Enforcement Team with their investigations.

### **3.23 Houses in Multiple Occupation:**

HMOs remain a priority for the team across the whole city and in particular the Lewes Road corridor. Planning controls were introduced through an Article 4 Direction in 2013, requiring small HMOs to obtain planning permission in five wards (new large HMOs always need planning permission). Awareness of this has been raised across the whole city and methods of investigation have been developed. In 2017/18 an officer was recruited to support HMO enforcement following the agreement of additional funding. This has been effective in increasing the focus on action against unauthorised HMOs.

In 2017/2018, ninety five (95) new cases were received relating to HMO's, compared to 192 the previous year. It is likely to be the case that this reduction is an indicator that enforcement action is working and developers/landlords are more aware of the restrictions and requirements when creating a new HMO and meeting guidance. This has also been helped by the publication on the website of a map setting out the location of all HMOs in the city which will assist landlords with avoiding areas with high concentrations of HMOs.

Of 62 formal enforcement notices served, 32 relate to unauthorised HMOs. Nine (9) of these have been complied with to date with the remaining either awaiting determination of an appeal or for the expiry of the notice.

There are currently 113 live HMO enforcement cases allocated to Officers. In addition a list of 400 licensed large HMOs has been referred to the Team from the Licensing team. A project is underway to ascertain which of these are authorised in planning terms. This will continue into 2018/2019.



## **4. OPTIONS FOR THE YEAR AHEAD**

### **4.1 The year ahead (2018/2019)**

The year ahead remains challenging for the Planning Enforcement Team, with continued pressure on the service in terms of caseloads and unauthorised HMOs within the city. The team will be fully staffed with one Principal Planning Officer, two Senior Planning Officers and two Assistant Planning Officers.

The proliferation of HMOs, while appearing to be reducing in terms of complaints, is still a significant challenge for the team with the majority of the cases being appealed and these appeals taking up significant time and resources.

### **4.2 Planning Enforcement Policy**

A new Planning Enforcement Policy Document is going to Tourism Development and Culture Committee in September seeking approval for it to be implemented from January 2019. This sets out a framework on what the public can expect from the service, priorities for action and also what the scope of enforcement powers .

### **4.3 Field Officer**

The planning enforcement team will continue to provide advice and support to the Field Officer programme in terms of identified functions and to improve customer service.

### **4.3 Modernisation**

Multiple improvements are being worked on to improve digital working including tablets for Officers to take on site and Enterprise Workflow software to improve handling of cases and data management.

### **4.4 Business Process Improvement Review**

A business process improvement review will be undertaken in the coming year to find further ways of improving case handling in terms of data management and efficiency.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

5.1 None carried out.

## **6. CONCLUSION**

6.1 There have been a number of positives for the Enforcement Team during 2017/18 in spite of ongoing challenges with large caseloads and unallocated cases. In terms of numbers – there has been a reduction in the number of Enforcement complaints (compared to 2016/17); the number of closed cases exceeded new cases; and there has been a lot of proactive work against unauthorised HMOs. In terms of staffing – the team was fully staffed in 2017/18 with an additional member of staff to support HMO work. The future also points to significant improvements relating to modernisation and recruitment of an additional permanent member of staff to the team. In addition, an updated

Enforcement Policy Document should be introduced in early 2019 to improve transparency, customer service and prioritisation of work.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 There are no financial implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Legal Implications:

- 7.2 There are no legal implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Equalities Implications:

- 7.3 There are no equalities implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Sustainability Implications:

- 7.4 There are no sustainability implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Any Other Significant Implications:

- 7.5 There are no other significant implications relating to this enforcement report that fall outside the normal service delivery for the department.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. None

### **Documents in Members' Rooms**

1. None.

### **Background Documents**

1. Planning Enforcement Policy 2011

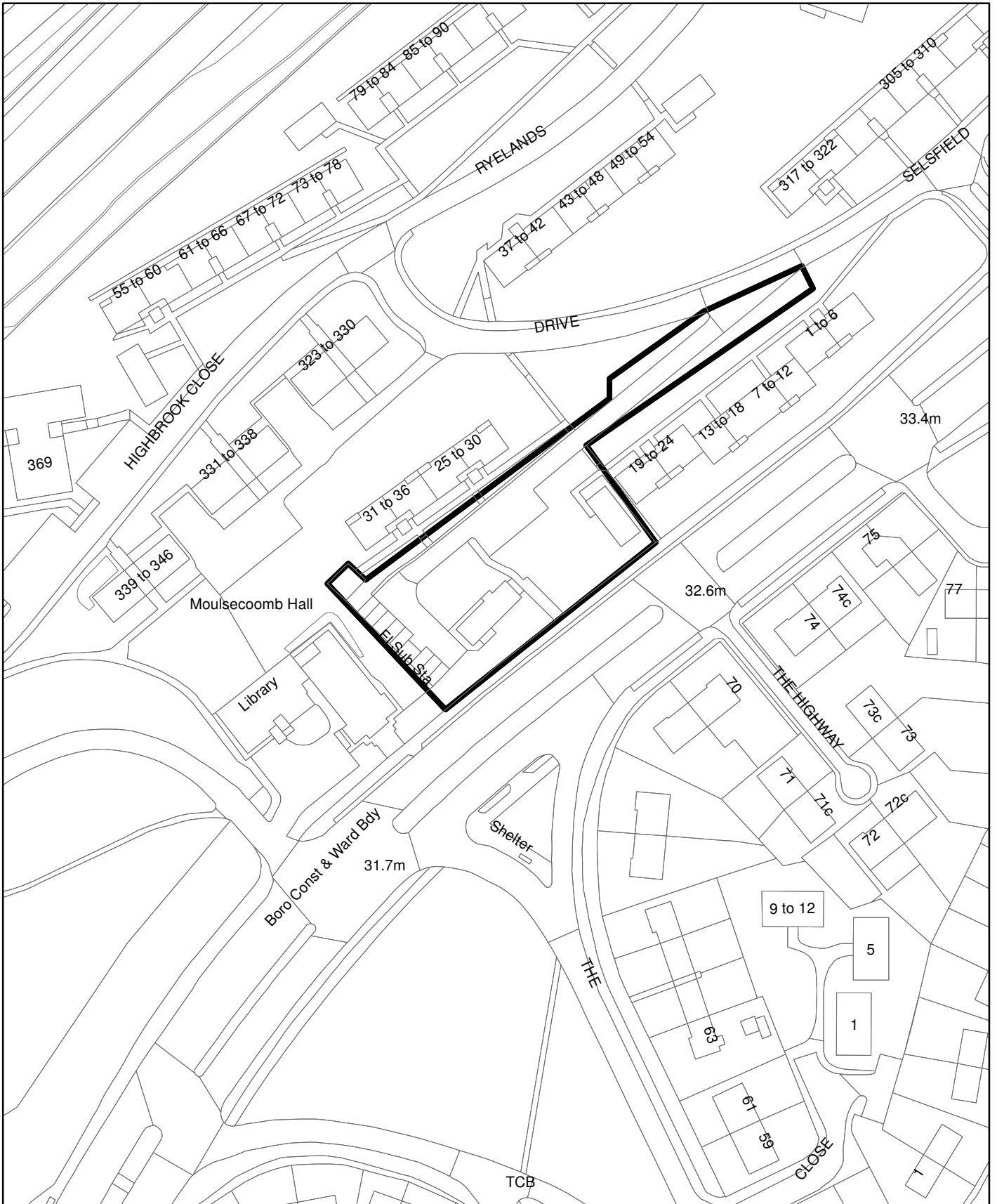
# **ITEM A**

**Site of North District Housing Office,  
Selsfield Drive, Brighton  
BH2018/01016  
Full Planning**

**DATE OF COMMITTEE: 12<sup>th</sup> September 2018**



# Former North District Housing Office Brighton



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/01016</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>Former Site Of North District Housing Office Selsfield Drive Brighton BN2 4HA</b>		
<b><u>Proposal:</u></b>	<b>Demolition of former neighbourhood housing office, housing store and garages (retrospective) and the erection of a 7 Storey over lower ground floor building, comprising of 30no residential dwellings (C3) with associated hard and soft landscaping, works to provide public realm, private and community amenity space, car parking and relocation of existing UK Power Networks electricity sub-station.</b>		
<b><u>Officer:</u></b>	Liz Arnold, tel: 291709	<b><u>Valid Date:</u></b>	04.05.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	03.08.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	04.01.2019
<b><u>Agent:</u></b>	Brighton & Hove City Council Architecture & Design Town Hall Norton Road Hove BN3 3BQ	1st Floor	Hove
<b><u>Applicant:</u></b>	Brighton & Hove City Council Estate Regeneration Town Hall Norton Road Hove BN3 3BQ	1st Floor	Hove

## 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 Planning Obligation and the Conditions and Informatives as set out hereunder SAVE THAT should the s106 Planning Obligation not be completed on or before the 4 January 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 9. of this report:

### 1.2 S106 Heads of Terms

- A contribution of £9,000 towards the Local Employment Scheme,
- Employment and Training Employment Strategy including a commitment to using 20 percent local labour during the construction phases of the development to be submitted prior to commencement,
- A total education contribution of £19, 406.40 towards the cost of providing secondary education at Brighton Aldridge Community Academy.
- A total contribution of £75, 337.79 towards open space and indoor sport. To be spent at;
  - Play - Saunders Park and/or Goodwood Way/Hodshrove Lane; Farm Green; Ashurst Road/Barcombe Road 'Maggies Corner'
  - Amenity - amenity land adjacent to and in vicinity of Selsfield Drive and/or Wild Park
  - Parks Gardens and natural/semi-natural - Wild Park and/or Saunders Park; Stanmer Park

- Sports facilities –Moulsecoomb Community Leisure Centre and/or Withdean Sports Complex and/or Wild Park; Stanmer Park
- Allotments - Moulsecoomb Estate and/or Old Water Works
- A transport financial contribution of £22,200 which shall go towards improvements to footways and footpaths within the Bates Estate to address deficiencies.

Conditions:

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

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

Plan Type	Reference	Version	Date Received
Location Plan	001		3 April 2018
Block Plan Existing	002		3 April 2018
Location Plan	003 (EXISTING)		3 April 2018
Location Plan	004 (PROPOSED)		3 April 2018
Block Plan Proposed	005		3 April 2018
Location Plan	006 (PROPOSED)		3 April 2018
Other	007 (EXISTING SITE SURVEY)		3 April 2018
Lighting scheme	008		3 April 2018
Site Layout Plan	010 (UPPER GF)		3 April 2018
Site Layout Plan	011 (UPPER GF)		3 April 2018
Site Layout Plan	012 (LOWER GF)		3 April 2018
Floor Plans Proposed	020 (LOWER GF)		3 April 2018
Floor Plans Proposed	021 (UPPER GF)		3 April 2018
Floor Plans Proposed	022 (1ST FLOOR)		3 April 2018
Floor Plans Proposed	023 (2ND FLOOR)		3 April 2018
Floor Plans Proposed	024 (3RD FLOOR)		3 April 2018
Floor Plans Proposed	025 (4TH FLOOR)		3 April 2018
Floor Plans Proposed	026 (5TH FLOOR)		3 April 2018
Floor Plans Proposed	027 (6TH FLOOR)		3 April 2018
Floor Plans Proposed	028 (ROOF PLAN)		3 April 2018
Other	029 (ACCOMODATIO N SCHEDULE)	Rev. A	21 May 2018
Elevations Proposed	030		3 April 2018
Other	031 (SE & NW		3 April 2018



	CONTEXT ELEVATIONS)		
Other	032 (NE & SW CONTEXT ELEVATIONS)		3 April 2018
Other	033 (CONTEXTUAL SECTIONS)		3 April 2018
Other	034 (DETAIL ELEVATIONS)		3 April 2018
Elevations Proposed	040 (NE)		6 June 2018
Elevations Proposed	041 (SE)		6 June 2018

2. The wheelchair accessible dwellings hereby permitted as detailed on drawing no. 029 Rev. A (Accommodation Schedule & Proposed Floor Plans) received on the 21<sup>st</sup> May 2018 shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
3. Due to the importance of elm trees to the City of Brighton and Hove and home to the National Elm Collection, and to help elm disease management in the City, elm trees must only be pruned between the dates 1st October to 31st May.  
**Reason:** To avoid any irreversible damage to retained trees pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with policy QD16 of the of the Brighton & Hove Local Plan and SPD06:Trees and Development Sites.
4. If during construction, contamination, coloured or highly odorous material not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.  
**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.
5. Access to the flat roof of the development hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.

**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

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

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

7. No development shall commence until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- a. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of housing units/bed spaces;

- b. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

- c. the arrangements for the transfer of the affordable housing to an affordable housing provider, or the management of the affordable housing (if no RSL involved);

- d. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

**Reason:** To ensure the development meets the housing needs of the city and to comply with policy CP20 of the Brighton & Hove City Plan Part One.

8. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations are/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

- a) creation of clapping escape ramps for badgers, which may be achieved by edgeprofiling of trenches/excavations or by using plans placed into them at the end of each working day; and

- b) open pipeworks greater than 150 mm outside diameter being blanked off at the end of each working day.

**Reason:** To ensure badgers are not trapped or harmed on site and to prevent delays to site operation, in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One and SPD11: Nature Conservation and Development.

9. No development shall take place until an ecological design strategy (EDS) addressing enhancement of the site for biodiversity has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:

- a) purpose and conservation objectives for the proposed works;

- b) review of site potential and constraints;

- c) detailed design(s) and/or working method(s) to achieve stated objectives;

- d) extent and location /area of proposed works on appropriate scale maps and plans;
- e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- g) persons responsible for implementing the works;
- h) details of initial aftercare and long-term maintenance;
- i) details for monitoring and remedial measures;
- j) details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

**Reason:** To ensure that the site is enhanced for biodiversity and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

10. No development shall take place until the developer has secured the implementation of a programme of archaeological work, in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

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

- (i) The phases of the Proposed Development including the forecasted completion date(s)
- (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
- (iii) A commitment to adopt and implement the Considerate Contractor Scheme (or equivalent at the time of submission)
- (iv) A commitment to ensure that all road hauliers and construction vehicle operators are accredited to Bonze standard (or greater) of the Freight Operator Recognition Scheme;
- (v) A scheme of how the contractors will liaise with local residents, businesses and public transport operators to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
- (vi) A scheme of how the contractors will minimise, record and respond to complaints of noise or disturbance from neighbours regarding issues such as noise and dust management, vibration, site traffic, idle vehicles, parking by staff and contractors and deliveries to and from the site
- (vii) Details of hours of construction including all associated vehicular movements
- (viii) Details of the construction compound, including the proposed location, design and construction of vehicular accesses to this from the highway, associated measures to manage local traffic movements around this,

including those by pedestrians and cyclists, and any associated on-street restrictions and other measures necessary to minimise congestion on the highway and permit safe access by site vehicles.

- (ix) A plan showing construction traffic routes
- (x) A scheme to minimise congestion, delays and disturbances to traffic and public transport services in the vicinity of the site owing to staff and contractor car parking and site traffic. This will include the identification of areas for staff and contractor parking. The scheme shall be informed by 16 hour parking stress surveys of the streets and public car parks in the vicinity of the site. These shall be carried out in accordance with the Lambeth methodology and shall be conducted on two neutral weekdays and one Saturday. Dates and times shall be agreed in advance with the Council.
- (xi) A scheme to minimise the impact, within Brighton and Hove, of demolition and construction traffic on Air Quality Management Areas and areas that currently experience, or are at risk, noise exceeding World Health Organisation lower limits.

(xii) An audit of all waste generated during construction works  
The construction shall be carried out in accordance with the approved CEMP.

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

12. The development hereby permitted shall not be commenced until details of electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

**Reason:** To encourage travel by more sustainable means and seek measures which reduce fuel use and greenhouse gas emissions and to comply with policy CP9 of the Brighton & Hove Brighton & Hove City Plan Part One and SPD14: Parking Standards.

13. Prior to the commencement of the development hereby approved (including any further demolition and preparatory work) a scheme for the protection of the retained trees, in accordance with BS5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. Specific issues to be dealt with in the TPP and AMS include:

- a) Location and installation of services/ utilities/ drainage including electricity cables for the new sub-station,
- b) Details of construction within the Root Protection Area (RPA) or that may impact on the retained trees including resurfacing of parking spaces,
- c) a full specification for the installation of boundary treatment works,
- d) a full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them,

- e) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses,
- f) A specification for protective fencing to safeguard trees during construction and a plan indicating the alignment of the protective fencing,
- g) a specification for scaffolding and ground protection if within tree protection zones,
- h) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area, details of site access, temporary parking, on site welfare facilities, loading, unloading and,
- i) materials, fuels and waste as well concrete mixing and use of fires well away from the RPA's of trees,
- j) Boundary treatments within the RPA,
- k) Methodology and detailed assessment of root pruning close to new electricity sub-station,
- l) Arboricultural supervision and inspection by a suitably qualified tree specialist
- m) Reporting of inspection and supervision,
- n) Methods to improve the rooting environment for retained and proposed trees and landscaping, and
- o) Details of all proposed Access Facilitation Pruning.

The development thereafter shall be implemented in strict accordance with the approved details.

**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 and CP13 of the Brighton & Hove City Plan Part One and SPD06: Trees and Development Sites.

14. The development hereby permitted shall not be commenced until detailed design and associated management and maintenance plans of the foul and surface water sewerage disposal, surface water run-off and drainage have been submitted to and approved in writing by the Local Planning Authority, to include the following;

- An infiltration survey,
- Drainage calculations, and
- A detailed maintenance plan of the constructed SUDS showing how they will be maintained and who by

The development shall be implemented in accordance with the approved details and thereafter maintained.

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

15. i) Prior to the commencement of the development hereby approved (including any ground clearance, tree works, further demolition or construction), details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required to include: installation of temporary access from Lewes Road, installation of electricity substation, in addition to general arboricultural supervision of the site as per the comments in section 6.3 of the Ruskin's Arboriculturist's Report dated May 2018) shall be submitted to and approved in writing by the Local Planning Authority. The

development thereafter shall be implemented in strict accordance with the approved details.

ii) The completed schedule of site supervision and monitoring of the arboricultural protection measures as approved in part i) shall be submitted for approval in writing by the Local Planning Authority within 28 days from completion of the development hereby permitted. This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist.

**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 and CP13 of the Brighton & Hove City Plan Part One and SPD06: Trees and Development Sites.

16. No development above lower 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

f) 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 HE3 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

17. Notwithstanding the information provided, no development above lower ground floor slab level of any part of the development hereby permitted shall take place 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.

18. The sub-station shall not be re-located until full details of the proposed enclosure have 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.

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

19. The development hereby approved shall not be first occupied until a scheme setting out highway works to implement the alterations to the parking spaces on

the public highway of Selsfield Drive, hereby approved, have been submitted to and approved in writing by the Local Planning Authority. No part of the development hereby approved shall be first occupied until the approved highway works have been carried out in accordance with the approved scheme.

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

20. The development hereby approved shall not be first occupied until full details of the recycling storage area indicated on the approved plans have 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 recycling storage facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of recycling 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.

21. Prior to occupation of the development hereby permitted, a scheme for the hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- a. A scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted;
- b. location, type and materials to be used for hard landscaping including specifications, where applicable for
  - i) permeable paving
  - ii) tree pit design
  - iii) underground modular systems
  - iv) Sustainable urban drainage integration
  - v) use within tree Root Protection Areas (RPAs);
- c. a schedule detailing sizes, numbers and densities of all proposed trees/plants;
- d. specifications for operations associated with plant establishment and maintenance that are compliant with best practise; and
- e. details of all boundary treatments to include type, position, design, dimensions and materials.

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Any soft landscaping, 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.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 and QD16 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One and SPD06: Trees and Development Sites.

22. The development hereby permitted shall not be brought into first use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 10 above and that provision for analysis, publication and dissemination of results and archive deposition has been secured, unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.  
**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.
23. Prior to first occupation of the development hereby approved, the sound proofing measures shall be implemented in strict accordance with the design control measures and recommendations set out in the '2018 Planning Application Environmental Noise Assessment' report dated 04/04/2018 and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
24. Prior to first occupation of the development hereby approved, full details of the proposed photovoltaic array referred to in the Clear Sky Sustainable Homes Ltd Energy Report shall be submitted to and approved in writing by the Local Planning Authority. The photovoltaic array shall then be installed in accordance with the approved details.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and has an acceptable appearance and to comply with policies CP8 and CP12 of the Brighton & Hove City Plan Part One.
25. Within three months of the date of first occupation a Travel Plan for the development has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.  
**Reason:** To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
26. 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.
27. None of the 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.

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 should also be aware that whilst the requisite planning permission may be granted, this does not preclude the Environmental Protection department from carrying out an investigation in line with the provisions Environmental Protection Act 1990, should any complaints be received with regards to noise and/or vibration and/or dust and/or light nuisance. This applies both during construction and post completion of the development.
  3. With respect of condition 17, the cycle storage details are required to show that cycle parking places are convenient and accessible both in relation to access to stands and the type of stand proposed; and that security is sufficient both for stored cycles and for those using the stores.
  4. The applicant is advised to contact the East Sussex County Archaeologist to establish the scope for the Written Scheme of Archaeological Investigation as required by conditions 10 and 22.
  5. Due to the desirability of cut elm branches and timber to adult elm bark beetles the Council seeks that all pruned elm material is correctly disposed of. In addition, all elm logs/timber is removed from the Brighton and Hove area or are taken to the Water Hall elm disposal site to be disposed of free of charge. Please call the Arboricultural team on 01273 292929 in advance to arrange this. Under any circumstances the applicant should not sell or give away cut elm timber as firewood to residents with the Brighton and Hove area as this situation has been responsible for many outbreaks of Dutch elm disease in the city. A pile of logs such as this will be an ideal breeding site for beetles which are responsible for spreading Elm Disease.
  6. The applicant is advised that a formal applications from Southern Water are required for connection to a water supply and on-site mains, connection to the public sewerage system and for the existing sewer diversion and Southern Water has advised the following;
    - The 150mm diameter sewer requires a clearance of 3m either side of the sewer to protect it from construction works and allow for future access for maintenance,
    - No development or new tree planting should be located within 3m either side of the external edge of the public sewer,
    - No new soakaways should be located within 5m of a public sewer,
    - All other existing infrastructure should be protected during the course of construction works, and
    - Where a SUDS scheme is to be implemented, the drainage details submitted should specify the responsibilities of each party for the implementation of the SUDS scheme, specify a timetable for implementation and provide a management and maintenance plan for the lifetime of the development. This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
  7. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. For further advice please

- contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (Tel:0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)
8. 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)).
  9. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see [Gov.uk website](http://Gov.uk)); 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.
  10. The applicant is advised that the Travel Plan required by condition 25 should include among other things, the following measures;
    - Two years membership of the local car club in order to encourage a low level of car ownership, and
    - 12 month season ticket for buses in Brighton & Hove, to support sustainable travel.
  11. The water efficiency standard required under condition 27 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 site measures approximately 0.26Ha and is sited within the south western corner of the Bates Estate. Until recently the site comprised of a single storey flat roofed Housing Office in the centre of the site, a single storey flat roofed store to the north-east, surfaced car parking to the west and 8 single storey garages to the south-west separated by an existing electrical sub-station. The car parking area and garages were accessed via Selsfield Drive, located to the north of the former Housing Office. The Housing office, store and garages were vacated in March 2014 and have recently been demolished.
- 2.2 The site is surrounded by 3 and 4 storey residential blocks to the north-east and north-west, a community hall and library on its western boundary and Lewes Road to the south. The Grade II Listed Building Moulsecomb Place (also known as Manor House) sits approximately 170m to the south-west of the site with other buildings also belonging to the University of Brighton beyond, including Preston Barracks. The wider setting of the site includes the South Downs National Park located beyond Home Farm Industrial Estate to the north-west of the Bates Estate and Moulsecomb rail station, located approximately 5 minute walk from the site.

- 2.3 The site is located within the DA3 Lewes Road Development Area of the City Plan, and is also located within the area of the city identified as the Lewes Road Tall Buildings Corridor.
- 2.4 The site is an Archaeologically sensitive site and is located within a nature improvement area.
- 2.5 Land levels change by approximately 3.5m across the site from Lewes Road to Selsfield Drive and a slight slope also exists west to east across the site.
- 2.6 The application seeks planning permission for the demolition of the former neighbourhood housing office, housing store and garages (retrospective) and the construction of a new 8 storey residential development comprising of 30 flats (14 x 1 bedroom and 16 x 2 bedroom, all for affordable council rent), associated hard and soft landscaping works, communal amenity space, pedestrian access, car parking and the relocation of the existing UK Power Networks electricity sub-station. The rear elevation of the building would face onto Selsfield Drive, which would provide the vehicular access to the site and pedestrian access at first floor level in addition to pedestrian access at ground floor level off Lewes Road.
- 2.7 The proposal has been developed as part of the Brighton & Hove City Council's 'New Homes for Neighbourhoods Programme' and would be delivered through the Council's Strategic Construction Partnership.

### **3. RELEVANT HISTORY**

#### **3.1 Officer Pre-application Advice (August 2014)**

This pre-application related to a proposal for a 5 storey building providing 20 flats. The feedback provided at this time was that there was concern regarding the potential impact on flats to the rear of the site and that further information would need to be provided to assess any potential impact and the overall design was broadly supported given the level changes through the site.

- 3.2 The 2014 scheme was presented to the Estate Regeneration Board, which has cross party support, who did not feel that the proposed number of homes delivered in the scheme realised the potential of this important site given its favourable location within a Tall Buildings Corridor and Sustainable Transport Corridor.

#### **3.3 Member Pre-Application Presentation (10<sup>th</sup> May 2016)**

A scheme was presented to Members on the 10<sup>th</sup> May 2016 comprising of the replacement of the single storey office building with a six storey building (with the 6<sup>th</sup> floor set back) providing 27 affordable rent flats (1, 2 and 3 bed), including 3 wheelchair units, 9 vehicle parking spaces and landscaping works. The feedback provided was as follows:

- The provision of new housing in place of the existing vacant housing office was welcomed
- Members raised significant concern over the height of the building as a townscape issue and recommend that the proposals are forwarded to Design Review for feedback prior to submission.

- Some concern was raised over the use of zinc as a material, and with the colour of the brickwork. It was felt that the brick should better reflect the immediate context of the building, in particular Moulsecomb Hall. A materials palette will be required as part of any submission.
- Members considered the degree of balcony overhang to be too dominant in context. It was felt that the Lewes Road entrance was underplayed compared to the Selsfield Drive entrance. A preference was stated for the chamfer to the southwest corner to be squared off.
- The impact of the building on the amenities of adjacent occupiers is likely to be acceptable subject to the findings of the daylight/sunlight assessment and an understanding of the layouts of the flats to the rear.
- The onsite parking provision was considered acceptable, subject to the findings of parking surveys to be submitted within the Transport Assessment.

#### 3.4 Design Review Panel (6<sup>th</sup> July 2016)

The panel supported the programme of seeking sites and maximising land use for building public housing. The panel considered that there was space on the site for building and the overall bulk and massing was considered acceptable. The Panel however considered that the adjacent library and community hall site would be a more appropriate location for a tall building, allowing this site to contain a lower building. The Panel also considered that a simpler building without set-backs would offer a more comfortable fit on the site and recommended a more rectangular, robust façade design that does not try to disguise its bulk. The Panel also stated that building materials can also be more robust and calmer, with solid fronted recessed balconies with clear detailing.

3.5 The Panel agreed that Lewes Road is a corridor appropriate for taller buildings and that development on the Preston Barracks and University site is likely to substantially change the context to the site, making a taller building here more appropriate.

3.6 (NB - This application does not relate to a master-plan approach for the re-development of the wider site, it relates solely to the redevelopment of the former housing office site).

#### 3.7 Officer Pre-application Advice (November 2017)

Officer pre-application advice was given in November 2017 relating to a scheme that had been amended to take into account Members and the Design Panel responses. A summary of the feedback provided is as follows;

- The general principle of the development was considered acceptable
- The 100% affordable development was welcomed
- Officers suggested that the detailed design and choice of material be given further consideration
- Any proposal would need to justify how the unit mix (1 and 2 bed) has been arrived at and what contribution this makes to meeting the housing needs of the City Area
- Subject to a satisfactory technical appraisal (tall buildings study) and design quality, the height of the building (8 storey) be acceptable.

- Further studies would be required in order to demonstrate there will not be an unacceptable impact on the residential properties to the north, and
- Appropriate landscaping and public realm details should be considered

3.8 It is stated within the submission that the proposal has been subject to public consultation with local tenants, residents and other community groups including a Public Exhibition on the 23<sup>rd</sup> February 2018.

#### 4. REPRESENTATIONS

4.1 Eleven (11) letters has been received objecting to the proposed development for the following reasons:

- Development is too high, will be imposing on existing homes. Would be 3 storeys higher than the rest of the area. Is out of keeping with other buildings in the area and does not conform with the general characteristics of the estate,
- Poor design,
- Appearance and size not in keeping with adjacent properties,
- Would adversely affect Conservation Area,
- From the top deck of a bus will be able to see people in their homes,
- Lack of parking, especially given parking problems caused in area by university students parking in estate,
- Is dangerously close to an A road and the bus lane,
- General highway concerns including additional traffic generation,
- Loss of quality of life for residents located to the rear of the development,
- No provision for social housing,
- No mention of the site where the power supply will be relocated too,
- Demolition has already commenced when permission has not yet been granted,
- Existing waste disposal facilities on estate are inadequate, this will be exacerbated by development,
- Residential congestion,
- Overdevelopment,
- Harm to residential amenity including overlooking, overshadowing, loss/restriction of views, loss of daylight/sunlight, right to light,
- Noise disturbance,
- Loss of/damage to trees,
- The policy officers comments, regarding the height of the development, fails to take into account that the existing buildings mentioned do not have residential buildings immediately to the rear and are not part of the estate, being separated from it by a road and a large area of green space. The policy comments therefore seem irrelevant and out of place in regard to the application, and
- Detrimental effect on surrounding property values.

4.2 One (1) letter has been received commenting on the proposed development for the following reasons:

- Concerned that 7 floors is too high in front of existing estate, being only 3 storeys high,
- Questions who is the development for?

- 4.3 **Regency Society** – Objects to plans for a 7 storey residential block. Though the scheme will provide much needed social housing, the current design is out of scale with the surrounding buildings and fails to respect the ‘garden suburb’ grain of the area. Moulsecomb is an early cottage-style council estate, loosely laid out to the design principles of Ebenezer Howard and with the intention of providing ‘homes fit for heroes’. The pleasing street plan follows the topography of the Downs and comprises generous front and rear gardens and expansive grass verges. While the development under construction on the nearby Preston Barracks site sets a precedent for tall buildings along the Lewes Road, these form a cluster, whereas the proposed building sits awkwardly with the surrounding low rise blocks. Dominates a key piece of the original landscaping and is insensitive to the general character of the area.
- 4.4 **Trust for Developing Communities:** Comment, would like to support the community and residents’ groups affected by this development to feel they have been able to influence and any adverse effects are mitigated as much as possible, including influencing any planning gain.

## 5. CONSULTATIONS

### 5.1 External:

- 5.2 **County Archaeologist:** Comment. The information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions.

- 5.3 **County Ecologist:** No objection in principle subject to the imposition of conditions regarding badger protection measures and biodiversity enhancement.

- 5.4 **Environment Agency:** No comments received.

### 5.5 UK Power Network

Objection (8/5/2018 and 1/06/2018). The company is the owner/occupier of the electricity substation located within 6m of the proposed works and it is believed that the proposed works are notifiable under the Party Wall etc Act 1996. Objects as the applicant has neither served Notice in accordance with the Party Wall etc Act 1996 nor satisfied the Company that the works are not notifiable. The applicant should provide details of the proposed works and liaise with the Company to ensure that appropriate protective measures and mitigation solutions are agreed in accordance with the Act. The Applicant would need to be responsible for any costs associated with any appropriate measures required.

No objection (24/07/2018). Objection withdrawn following receipt of correspondence from applicant regarding pre-application discussions, advise and site meetings.

- 5.6 **Southern Water:** Comment. The submitted plans shows that the developer is proposing to divert the public sewer which is crossing the site, requests a formal application for sewer diversion. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.
- 5.7 Initial investigations indicate that Southern Water can provide foul sewage disposal to service the proposed development but requires a formal application for a connection to the public sewer.
- 5.8 The application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.
- 5.9 Should the Council be minded to grant, requests that conditions be attached to secure agreement for the means of foul disposal and foul and surface water sewerage disposal.
- 5.10 Following initial investigations Southern Water can provide a water supply to the site but requires a formal application for connection and on-site mains to be made.
- 5.11 The proposed development would lie within a Source Protection Zone around one of Southern Water's public water supply sources as defined under the Environment Agency's Groundwater Protection Policy.
- 5.12 **Sussex Police:** Comment. The building will house some vulnerable residents and so preventing unauthorised access to their private living accommodation is important with good access control and clearly defined separation between public and private areas. It will also help deter unintended egress by some residents, and so help to maintain their safe environment.
- 5.13 Suggested recommendations/comments include;
- Controlled access doors for authorised persons only,
  - restrictions on ground floor,
  - internal lighting to the secure cycle stores,
  - Lighting throughout the development will be an important consideration, 24 hour dusk to dawn switched lighting around the external entrances internal foyer, lobbies and landings,
  - communal parking within view of an active room within the property,

- the sunken patio features in the Selsfield side of the building may suffer debris and litter dropping down on to them and would benefit from protection with low bushes or a screen,
- controlled parking measures to prevent unauthorised parking in Selsfield Road to keep the access clear,
- The refuse and recycling store should be secured within a perimeter wall or fence with controlled access gates to prevent larger bins being moved or accessed. Lockable lids or a covered roof would also deter arson and antisocial behaviour,
- When relocated the electrical sub-station will benefit from a secure fence and controlled gated access to deter climbing, and
- although located nearest the path from the main Lewes Road entrance have concerns regarding the location of the disabled bays, as being located at the end of the parking bay row will make it more difficult for persons with limited movement to negotiate a reverse or forward driving manoeuvre from or into those positions if the access road is of insufficient width for them to manoeuvre easily,

5.14 **Internal:**

- 5.15 **Arboriculturist:** No Objection. Many trees have already been removed to facilitate the development and there are three large mature trees that will be affected by it, in addition to one sycamore tree on the adjacent land protected by a tree preservation order. Believe these four trees can be protected and retained as long as there is a strong arboricultural method statement and a robust arboricultural supervision schedule in place to minimise the potential of root damage from building activities and these can be left to condition. Recommends approval subject to conditions.
- 5.16 **Economic Development:** No Objection. The provision of 30 dwellings (affordable rent) is welcomed and will contribute towards the city's challenging targets for new homes.
- 5.17 Should the application be approved an Employment and Training Strategy will be required to be submitted prior to site commencement. In addition to developer contributions of £9,000 towards the council's Local Employment Scheme, as referenced in the council's Developer Contributions Technical Guidance.
- 5.18 **Education Officer:** Comment. In this instance 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. The calculation of the developer contribution shows a contribution of £19,406.40 should be sought towards the cost of secondary provision if this development was to proceed.
- 5.19 With regards to the secondary provision, the development is in the current catchment area for Brighton Aldridge Community Academy. At the present time there is some surplus capacity in this catchment area, however secondary pupil numbers in the city are currently rising and it is anticipated that all secondary schools will be full in a few years' time, funding secured for



secondary education in the city will be spent at Brighton Aldridge Community Academy.

- 5.20 **Environmental Health:** No objection. If permission to develop the land is granted, would recommend applying conditions regarding soundproofing, land contamination and a construction environmental management plan.
- 5.21 **Heritage:** (11/05/2018) Comment. The Archaeological desk-based assessment considers that the setting of the listed Manor House is a “heavily built-up and urban environment” and that this setting would not be adversely affected by the proposed development. It is indeed the case that a major, heavily-trafficked road runs in front of the listed building and that there are existing large scale university buildings to the immediate south of the listed building. Nevertheless, the listed building sits back from the road in landscaped grounds and from there the predominant views away from the city centre, to the east, north-east and north, are dominated by trees and 2 storey, low density suburban housing. The proposed 7 storey block would therefore have some impact on the setting of the listed building (which originally sat in open countryside) by making its surroundings more urban.
- 5.22 It is therefore important to have a full understanding of the impact of the proposal in views looking from the listed buildings towards the site and also from Lewes Road north of the site towards the listed building. This would enable the impact of the development on the setting of the listed building to be fully assessed. As submitted no such views have been provided.
- 5.23 The Archaeological desk-based assessment also considers that the setting of the scheduled monument of Hollingbury Hillfort “is unlikely to suffer any negative impact from the proposed development on site due to the distance of at least 1km within which residential and other buildings, open fields and Hollingbury Golf Course are located, and the steepness of the slope which hides the site from the fort”. This assessment is concurred with. The siting of the development on the valley floor means that from the scheduled monument the development would not intrude upon the horizon line or increase the sense of urbanisation.
- 5.24 (5/06/2018) No objection following receipt of a Design and Access Statement and Tall Buildings Statement. The submitted Tall Buildings Statement and the associated ‘Visual Impact Study – Moulsecomb Place’ demonstrate that the proposed development would have some impact on the setting of the listed building, the way in which it is experienced, by making its surroundings more urban, particularly as a result of the way in which the development would intrude well above the prevailing tree line in most cases (e.g. viewpoints 4 and 9 and the view from in front of the building looking north-east towards the site, though this one has not been specifically illustrated).
- 5.25 However, the listed building sits back from the road in landscaped grounds and due to intervening development and extensive mature trees inter-visibility with the site is comparatively limited. Together with the fact of a major, heavily-trafficked road running in front of the listed building and existing large scale

university buildings to the immediate south, this leads to the conclusion that harm to the setting of the listed building is at the very minor end of 'less than substantial' and, in accordance with paragraph 134 of the NPPF, this very minor harm will need to be weighed against the public benefits of the development, including its design quality.

- 5.26 **Housing:** No objection. The provision of 30 affordable rent dwellings is welcomed and will contribute towards meeting the City's need for affordable homes.
- 5.27 The provision of 2 wheelchair accessible homes as affordable rent tenure meet identified housing need.
- 5.28 All homes meet the required space standards.
- 5.29 **Flood Risk Management Officer:** No objection subject to the inclusion of conditions regarding infiltration surveys, drainage calculations for the final detailed design and detailed maintenance plan.
- 5.30 **Planning Policy:** No objection. This is a City Council proposal on Housing Revenue Account (HRA) land and forms part of the New Homes for Neighbourhoods (NHFN) programme. The site is identified in the Strategic Housing Land Availability Assessment (SHLAA) Update 2017 as suitable for delivery of 30 dwellings and is included as an allocation in Policy H1 of the draft City Plan Part 2. The proposed development has been subject to pre-application Design Panel review and consultation with local residents.
- 5.31 The site is now vacant but was in previous use as one of the Council's housing offices accommodating staff and providing front desk reception for enquiries from the general public and the payment of rent or council tax bills. As such, the previous use is considered to fall under Use Class A2 and would not be subject to the requirements set out in Policy CP3 (Employment Land) for the safeguarding of existing employment land (Use Classes B1-B8).
- 5.32 The development would provide 100% affordable rented housing comprising 1 and 2-bed apartments, 2 of which would be wheelchair accessible. The suitability of the proposed housing mix should be checked with BHCC Housing officers.
- 5.33 The application is accompanied by a Design & Access Statement and Tall Buildings Statement. In design terms, the main issue is the height of the proposed 8-storey building. Although the surrounding residential development is generally only 3-4 storeys, Policy CP12 identifies the Lewes Road corridor as an area with potential for taller developments. In addition the site is relatively close to the existing tall buildings along Lewes Road at Brighton University (up to 10 storeys) and the Preston Barracks development (which will include buildings up to 18 storeys). Within this context, the principle of a taller building can be supported, subject to any detailed design considerations.

- 5.34 The housing density of c147 dwellings per hectare (dph) would be well above the surrounding residential development. However the site is well located to deliver high density housing development due to its location on a sustainable transport corridor with good access to local facilities.
- 5.35 The proposed development would be in conformity with the strategy for the Lewes Road Area set out in Policy DA3. The proposed 30 affordable rented units would help towards meeting the city housing target and would contribute towards the council's NHFN programme to deliver affordable housing to address housing needs in the city.
- 5.36 **Public Art Officer:** No objection. For a number of years working practice has been that the Council has secured artistic component sums for new build schemes based on scale and location where a sufficient sum could be sought for an artistic component to include processes such as commissioning and installation. It is not considered that a sufficient sum would be secured for this particular development therefore an artistic component sum is not being requested for this application.
- 5.37 **Sustainable Transport:** No objection (19/06/2018) The development is largely acceptable in transport terms subject to conditions and obligations required to ensure compliance with policies and to mitigate the impact 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, 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
- CP5 Culture and tourism
- CP7 Infrastructure and developer contributions

CP8 Sustainable buildings  
CP9 Sustainable transport  
CP10 Biodiversity  
CP11 Flood risk  
CP12 Urban design  
CP13 Public streets and spaces  
CP14 Housing density  
CP15 Heritage  
CP16 Open space  
CP17 Sports provision  
CP18 Healthy city  
CP19 Housing mix  
CP20 Affordable housing  
DA3 Lewes Road Area  
SA5 The Setting of the South Downs National Park

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  
QD15 Landscape design  
QD16 Trees and hedgerows  
QD18 Species protection  
QD25 External lighting  
QD27 Protection of amenity  
HO5 Provision of private amenity space in residential development  
HO13 Accessible housing and lifetime homes  
HE3 Development affecting the setting of a listed building  
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

Supplementary Planning Guidance

SPGBH9 A Guide for Residential Developers on the Provision of  
Recreational Space  
SPGBH15 Tall Building

Strategic Housing Land Availability Assessment Update 2017

East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan -  
Policy WMP3d and WMP3e

## **8. CONSIDERATIONS & ASSESSMENT**

8.1 The scheme subject of this application has not been significantly altered since the Officer pre-application advice was provided in November 2017. However the proposal set out in this application is different to the scheme reviewed by Committee Members/Design Panel in 2016 in the following ways;

- A reduction in the overall footprint,
- Change to the building form including the chamfering of the building edges,
- The addition of 2 floors,
- The omission of the 3 bedroom units alongside a change to the mix of 1 and 2 bedroom units provided
- An increase in the number of overall units provided,
- Increase in public realm provision,
- The re-organization of unit layout to prevent the provision of single aspect north facing units, and
- The omission of zinc cladding.

8.2 The main considerations in the determination of this application relate to the principle of the proposed development including the loss of the former housing office (Use Class A2) and the impacts of the proposed development on the visual amenities of the site and surrounding area, including the setting of the South Downs National Park and Moulsecoomb Place, which is a Grade II Listed Building. The proposed access arrangements and related traffic implications, impacts upon amenity of neighbouring properties, future occupiers' amenity, ecology, and sustainability impacts must also be assessed.

### **8.3 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.

8.4 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).

8.5 The site, which forms Housing Revenue Account Land, until recently contained a former Housing Office (Use Class A2) and associated car park, an unused resident store and 8 garages, all which became vacant in March 2014.

- 8.6 The site is identified in the Strategic Housing Land Availability Assessment (SHLAA) update 2017 as suitable for delivery of 30 dwellings and is included as an allocation in Policy H1 of the draft CPP2.
- 8.7 Whilst the site is now vacant and the former office/garage buildings have been demolished, the site was formerly used as one of the Council's housing offices accommodating staff and providing front desk reception for enquiries from the general public and the payment of rent or council tax bills.
- 8.8 In November 2013 the Council's Housing Committee approved the closure of the Selsfield Drive office and the redevelopment of the site, subject to planning consent, for housing under the New Homes for Neighbourhoods programme. The previous office use was principally focused on providing housing services to visiting members of the public and is therefore considered to fall under Use Class A2 (Financial and professional services) rather than B1(a) (Business office use). As such, the site would not be subject to the requirements for the safeguarding of existing employment land (Use Classes B1-B8) as set out in Policy CP3 (Employment Land).
- 8.9 As noted above, the site has been identified as suitable for housing in the SHLAA and is a proposed allocation for housing in the draft CPP2.
- 8.10 The site, which is located with the middle section of the Lewes Road corridor, is subject to policy DA3, which extends the length of Lewes Road from the Level to the University of Sussex at Falmer. Lewes Road is one of the main routes into the city and is identified as a sustainable transport corridor. Policy DA3 includes the provision of a minimum of 880 new residential units, along with development for employment, education and student accommodation. The strategy for Lewes Road also includes improvements to sustainable transport infrastructure, townscape, public realm, green infrastructure and improvements to air quality.
- 8.11 Policy CP12 identifies the Lewes Road corridor as an area with potential for taller developments (approximately 6 or more storeys). The supporting text of this policy states that;
- 8.12 "Given the city's physical constraints there is a need to increase density on existing brownfield land in a sustainable manner. Taller buildings (in the context of the city's prevailing built form) offer one potential way of achieving this in appropriate locations. This policy seeks to ensure that such proposals are directed towards those broad areas where such potential has been identified".
- 8.13 As a result of the proposed height of the residential block the proposal is also subject to the Council's SPGBH15 'Tall Buildings'. The SPG was informed by a Tall Building Study, which was commissioned to set out clear design guidance for considering proposals for tall buildings (defined as being over 18m in height (approximately six storeys) above existing ground level) and to identify strategic areas where there may be opportunities for tall buildings.

- 8.14 The proposal would provide a 'mid-rise' tall building (defined as 6 to 8 storeys) in height and therefore, in accordance with the guidance, a Tall Buildings Statement has been submitted as part of the application to indicate how the proposal has responded to the planning and design guidelines.
- 8.15 Whilst the principle of a tall building on the site is therefore in accordance with City Plan policy CP12 and SPGBH15 Tall Buildings Guidance, the impacts of the proposed building height are discussed in more detail below.
- 8.16 **Layout/Design/Visual Amenities**
- 8.17 Layout of the Site  
Land levels change by approximately 3.5m across the site between by Lewes Road and Selsfield Drive.
- 8.18 The proposed development would be located to the southern side of Selsfield Drive and to the south and west of the proposed parking areas for the development. Landscaped areas would be located to the west of the site and along the eastern boundary with pedestrian pathways providing connections from Lewes Road, through the site and associated parking areas and to Selsfield Drive.
- 8.19 The existing substation, which is located on the south-western side of the site between the two existing block of garages, would be re-located further to the north-east as part of the proposal, in order to improve parking and vehicle movement opportunities for the proposal. The details and design of the new sub-station compound should be sought via a condition.
- 8.20 The current sub-station area would be altered to provide additional parking provision.
- 8.21 Design/Visual Amenity Impacts:  
As set out above, the proposed development is defined as a mid-rise development, comprising of 8 storeys when viewed from Lewes Road but 7 storeys over a lower ground floor level when viewed from Selsfield Drive, as a result of the topography of the site and surrounding area. As set out above, the suitability of sites for taller buildings within the Lewes Road corridor is primarily established through the Tall Buildings SPD and policy CP12. In accordance with policy CP12 and SPG15 a Tall Buildings Statement (TBS) has been submitted as part of the application.
- 8.22 The proposed building has chamfered elevations on the south-western and north-eastern side of the building resulting in a narrower and splayed footprint at these parts of the building.
- 8.23 The proposed south-eastern building line of the development (excluding the proposed projecting balconies) would align with the south-east most front building line of the adjacent residential block (1 to 24 Selsfield Drive) and Moulsecoomb Hall, located to the west of the site.

- 8.24 The site is surrounded by 3 and 4 storey residential blocks to the north-east and north-west, a 2 storey community hall and a single storey library on its western boundary, as such the proposal would be taller than other buildings within the vicinity of the site. However, due to the fact that the proposal would be located at the foot of the slope which rises from Lewes Road to Home Farm Road, the upper parts of the proposal would be viewed in context with neighbouring buildings located to the north-west of the site, which are sited at a higher land levels.
- 8.25 Furthermore, located approximately 220m along the Lewes Road corridor to the south-west of the site are existing buildings associated with the University of Sussex, comprising of between of 4 (Watts Building) and 10 storeys (Cockcroft Building). In addition following recent planning permission for Preston Barracks construction is underway of a number of new buildings comprising of between 4 and 18 storeys.
- 8.26 Strategic views have been provided from approach views along Lewes Road, views from The Avenue and views of the Grade II listed Moulsecoomb Place as part of the application.
- 8.27 The proposal would not be located within the peripheral view from any of the strategic viewpoints that are identified in the Tall Building Study (2003). Lewes Road is however a main route into and out of the city and as a result is identified as a key approach within the study.
- 8.28 Whilst a condition is recommended for samples of the finish materials to be submitted the information provided indicates that the proposal would comprise of the following materials;
- Buff multi facing brickwork
  - Aluminium bronze coloured cladding,
  - Metal flat plate balustrades,
  - Aluminium bronze coloured glazing unit,
  - Aluminium bronze coloured curtain walling system,
  - Aluminium balcony fascia panel and soffit, and
  - Aluminium capping
- 8.29 The proposed materials have been chosen to reflect the existing collection of materials in the surrounding area and to give a sense of depth and interest to the elevations where appropriate. It is stated that the proposed lighter brick choice takes reference from the taller buildings in the area including Highbrook Close flats located to the north-west of the site, Moulsecoomb Place and Moulsecoomb Hall.
- 8.30 Whilst there are no designated heritage assets within or adjacent to the site Moulsecoomb Place/Manor House, which is a Grade II Listed building owned by the University of Sussex, is located approximately 170m to the south-west of the site. Moulsecoomb Place, which incorporates part of a late-medieval building



- altered in 1913, is set back from Lewes Road with a green open space in front and is screened by mature trees and open green space.
- 8.31 The site does not lie within an Archaeological Notification Area however approximately 1km to the north-west is the Scheduled Monument of Hollingbury Hill Fort.
- 8.32 As part of the application an Archaeological desk-based assessment has been submitted which considers as part of the assessment the setting of the listed Manor House and the setting of the scheduled monument of Hollingbury Hillfort.
- 8.33 The submitted Tall Buildings Study and associated Visual Impact Study demonstrates that the proposed development would not have an adverse impact upon the setting of the Fort however there would be some impact on the setting of the nearby Listed Building, with regards to the way in which it is experienced, by making its surroundings more urban, particularly as a result of the way in which the development would intrude well above the prevailing tree line in most cases.
- 8.34 However the Council's Heritage Officer acknowledges that the Listed Building sits back from the road in landscaped grounds and due to intervening development and extensive mature trees inter-visibility with the site is comparatively limited.
- 8.35 Furthermore it is acknowledge that a major, heavily-trafficked Lewes Road runs in front of the listed building and existing large scale university buildings to the immediate south.
- 8.36 The Council's Heritage Officer considers that the harm to the setting of the listed building is considered to be at the very minor end of 'less than substantial' and, in accordance with paragraph the NPPF, this very minor harm is weighed against the public benefits of the development discussed elsewhere in this report.
- 8.37 When harm to a heritage asset is identified as a result of a development there is a statutory presumption (inherent in sections 66 and 72 of the Listed Buildings and Conservation Areas Act) against granting planning permission. In accordance however with paragraph 134 of the NPPF where the harm is less than substantial, this harm should be weighed against the public benefits of the proposal.
- 8.38 In this case, whilst the Heritage comments are noted, the public benefits of the redevelopment of a Strategic Allocation within a Development Area identified in the City Plan and the improvements to the public realm are considered to outweigh the harm to heritage assets.
- 8.39 The development seeks to maximise the use of the site but it is acknowledged that it represents a scale which challenges the traditional scale and form of the surrounding locality. In the context of the tall buildings at the nearby University site (existing and currently under construction) and the fact that the principle of a tall building in this part of the City is in accordance with City Plan policy CP12

and SPGBH15 Tall Buildings Guidance overall it is considered that the scale, height and design of the proposed scheme is acceptable and as such is supported.

**8.40 Housing Mix/Affordable Housing/Density**

The proposal would provide 30 (100%) affordable flats, which exceeds the 40% requirement set out in policy CP20 for a development of this scale and nature. As such the proposal would make an important contribution towards both the City's housing and affordable housing shortages. The Council's Affordable Housing Brief sets out a broad tenure split of 55% Social Rent/Affordable Rent and 45% Intermediate (Shared Ownership Sale) as a citywide objective. This scheme is being provided as 100% Affordable Rent which is welcomed. When the development is completed the City Council will be able to nominate people from the housing register to all of the properties.

8.41 The proposal would comprise fourteen x 1 bedroom (2 person) flats and sixteen x 2 bedroom (4 person) flats. The two 2 bedroom flats proposed in the lower ground floor level would be wheelchair accessible units, a provision level which accords with policy HO13 (based on 40% policy complaint affordable housing provision and not the 100% proposed).

8.42 Up to date assessments of housing needs shows that although greatest need (numerically) is for smaller 1 and 2 bed properties, there is significant pressure on larger family sized homes and the Affordable Housing Brief is based on this requiring a balance of unit sizes, generally requiring a scheme with a mix of 1, 2 and 3 bed properties.

8.43 It is acknowledged that a number of design options were considered before the formal application was submitted, including schemes with 3 bedrooms flats. However as a result of neighbouring amenity impacts and design considerations it was overall considered that a scheme with only 1 and 2 bedroom units provided the more effective use of the site. Smaller rented units can be used for those downsizing from family homes in more suitable locations.

8.44 Policy CP14 relates to development density. The proposal would comprise a density of approximately 147(dph), which is acknowledged as being high when compared to the density of the surrounding existing residential development. However policy CP14 allows for new development at higher densities than those typically found in the locality subject to specified criteria such as design, character of the area, access to facilities and sustainable transport. This policy also states that new residential development on major sites within Development Ares, such as this, should seek to achieve minimum densities of 100 dph where the criteria can be met.

8.45 It is considered that the site is well located to deliver a development of high density housing in view of its location on a sustainable transport corridor with good access to local facilities. Issues regarding design and impact on the character of the area have been addressed above.

**8.46 Accommodation Provision/Standard of Accommodation**

Other than at Lower Ground Floor Level, each floor level would comprise of four flats, 2 x 1 bedroom and 2 x 2 bedroom flats. The proposed layout of the flats at Upper Ground Floor to 7<sup>th</sup> floor level would be organised around a central staircase and lift core. The proposed 2 bedroom flats would wrap around the 1 bedroom flats, ensuring a dual aspect outlook. The proposed Lower Ground Floor which would comprise 2 x 2 bedroom flats, plant rooms, a sprinkler tank room and cycle stores.

- 8.47 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 sets out recommended space standards for new dwellings. This documents states that a minimum gross floorspace of 50sqm should be provided for a 1 bedroom, 2 person flat and a minimum of 70sqm for a 2 bedroom 4 person flat.
- 8.48 The proposal would provide 1 bedroom flats (up to 2 person occupancy) with a floorspace of 50.0sqm or 50.5sqm, whilst the proposed 2 bedroom (up to 4 person occupancy) flats would provide a floor space of 83.7sqm or 92.5sqm (wheelchair accessible units). The gross floorspace of the proposed flats in addition to the floorspace of each individual bedroom proposed exceeds the minimum floorspace standards set out in the Government document.
- 8.49 It is considered that the design/layout of the proposed flats would provide adequate levels of circulation, storage, light/sunlight, ventilation and outlook.
- 8.50 **Amenity and Open Space and Recreation Provision**  
Policy HO5 requires new residential development to provide adequate private and usable amenity space for occupiers, appropriate to the scale and character of the development.
- 8.51 At Lower Ground Floor level both of the proposed 2 bedroom flats would have access to a patio facing Selsfield Drive and Lewes Road whilst the rest of the flats would have access to a private balcony, with a depth of approximately 1.5m. All of the proposed balconies would be positioned on the south/east facing elevations fronting Lewes Road. It is noted that the size of the proposed balconies compared to the scale of the flats is not proportionate as the proposed 1 bedroom flats would have a slightly larger balcony area than the proposed 2 bedroom flats (9.5sqm compared to 9.4sqm) however the proposed 2 bedroom properties would have larger living room areas and as such refusal on this basis is not considered warrant. Furthermore the site is located opposite public open space areas along the Highway in addition to being located near to Wild Park.
- 8.52 **Impact on Neighbouring 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.

- 8.53 Issues regarding the loss of value to existing neighbouring properties raised in the objections received are not material planning considerations in the determination of the application.
- 8.54 It is stated within the application that the provision of the more active street frontages, the stair core and living rooms being located on the busier Lewes Road side would;
- 8.55 “re-inforce the sense of this elevation as the building’s primary, outward facing, public frontage with increased capacity to take activity and movement and less risk of detrimental impact on the privacy of neighbouring residential blocks”.
- 8.56 The south-western elevation of the block of nos. 19-24 Selsfield Drive, which faces towards the development site from the north-east, comprises 1 window at each floor level which provides light to bedrooms.
- 8.57 The residential block known as 25-36 Selsfield Drive, which is located to the north-west of the site, is located at an elevated position above Selsfield Road street level. A minimum distance of approximately 18.3m would be located between the main rear/north-west elevation of the proposed development (excluding the tank room and porch projection at lower ground and ground floor level) and the main front elevation of nos. 25 to 36 Selsfield Drive (which is set further to the north-west than the projecting staircase section of this neighbouring properties).
- 8.58 The windows facing the development site within nos. 25 to 36 Selsfield Drive relate to the kitchen, bathroom and the living rooms. The living rooms are dual aspect with a window provided on the north-western side facing onto an external/enclosed balcony area for each flat in addition to a window on the front or side elevations depending upon the positioning of the flat within the block.
- 8.59 It is not considered that the inclusion of windows in the elevation that would face towards Selsfield Drive would have a significant adverse impact upon the amenities of the residents of nos. 25 to 36 Selsfield Drive due to the distance to these neighbouring properties (being a minimum distance of approximately 18.3 m).
- 8.60 The proposed balconies located on the north-eastern side of the Lewes Road façade would provide some views towards the side elevation of 19 to 24 Selsfield Drive. However as a result of the positioning of these proposed balconies in relation to the windows in the side of the north-eastern neighbouring property and the distance between the two built forms, overall it is not considered that the provision of the balconies, without side screening, would result in the loss of privacy or overlooking to the residents of nos.19 to 24 Selsfield Drive.
- 8.61 The loss of a view is not a material planning consideration however it is noted that the outlook from a number of existing neighbouring properties, especially those located directly behind the site (nos. 25 to 30 Selsfield Drive) would be adversely impacted by the proposal. All these flats, according to the original

floor layouts, have a dual aspect that faces away from the site, with a view into a green amenity space to the rear of the building.

8.62 Daylighting/Sunlight/Overshadowing

As part of the application a Daylight and Sunlight Study has been submitted which assesses the impact of the proposal on numbers 323 to 346 Highbrook Close, 37 to 42 Ryelands Drive, 19 to 24 and 25 to 36 Selsfield Drive, 69A and 70 The Highway, Moulsecroomb Hall and Moulsecroomb library.

8.63 Impacts on sunlight/daylighting to neighbouring development has been considered by the applicant in line with best practice, contained within the (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice' (2011).

8.64 An extract from the BRE guide states; "The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly, since natural lighting is only one of many factors in site layout design."

8.65 The guidance notes, in relation to daylighting, that diffused daylight may be adversely affected if after a development is completed, the Vertical Sky Component (VSC) is both less than 27% and less than 0.8 times its former value.

8.66 The submitted assessments are based on the recommended levels outlined within the BRE Guide with regards to habitable rooms of various surrounding residential properties. The Vertical Sky Component (VSC) has been assessed.

8.67 A total of 286 windows have been analysed. The report identifies that 18 windows, relating to habitable rooms (kitchens/living rooms and bedrooms) located with the surrounding neighbouring residential properties, would not meet the minimum BRE guide levels as a result of the proposal. The level of percentage reduction for these 18 rooms ranges between 10% and 17.2% and would have a ratio below the BRE guide ratio of 0.8 (these windows would have ratios of between 0.51 and 0.76).

8.68 It is acknowledged that the VSC test undertaken in the report is applied on a window by window basis and does not take into account that the living rooms relating to windows 224 to 229 (which face southeast) are also served by windows on the north-western elevation of the property (which do not face the application site) and as such are dual aspect. In addition windows 203 to 205, 221 to 223 and 230 to 232 serve small kitchen areas, which do not appear to be of a size to accommodate a seating area.

8.69 Windows 174, 175 and 176 are located towards the northern side of the south-west facing elevation of no. 19 to 24 Selsfield Drive and relate to one of the bedrooms in these two bedroom properties. Whilst the proposal would result in the percentage reduction of between 12.4% and 14% and resulting ratios of

between 0.6 and 0.63 it is noted that within the BRE guidance bedrooms are considered less important than living rooms/dining rooms or kitchens.

- 8.70 Whilst the data within the submitted the report shows other windows which would not meet the BRE guidance, these windows relate to non-habitable rooms of the surrounding residential properties, ie communal stairwells, bathrooms, toilets, porches or entrance halls and normally are not required to be analysed.
- 8.71 The impacts of the proposal on the Vertical Sky Component for the adjacent community hall (Moulsecoomb Hall) and library have also been assessed. All of the windows in these neighbouring, non-residential properties would continue to meet the BRE guidance.
- 8.72 The BRE sunlight tests should be applied to all main living rooms and conservatories which have a window which faces within 90 degrees of due south.
- 8.73 All windows which face within 90 degrees of due south have been tested for direct sunlight. All habitable room windows pass both the total annual sunlight hours test and the winter sunlight hours test (annual probable sunlight hours between 21 September and 21 March) and therefore meet the direct sunlight to windows BRE guidance.
- 8.74 With regards to overshadowing to gardens and open spaces the proposed development passes the BRE guidance as the development would not create any new areas which would receive less than 2 hours of sunlight on 21<sup>st</sup> March as the before/after ratios are 1 (no loss).
- 8.75 Although it is regrettable that not all windows tested would meet the minimum standards recommended by BRE as a result of the proposal, it is not considered that refusal on this basis is warranted as only 3 windows of all the windows tested fail (when considering the dual aspect of the living rooms discussed above and the small kitchen sizes) and given the public benefit of the proposal, in that it would provide 30 affordable units, is considered to outweigh the harm to the neighbouring properties that has been identified above.
- 8.76 **Trees and Landscaping:**  
As set out above, demolition of the former housing office and associated buildings has already been undertaken. Many trees have already been removed in order to facilitate the demolition and the proposed development. A large mature Beech Tree (T44) and two mature elm trees (T12 and T15) have been retained. Significant trees that remain off-site include a lime tree (T1) and a line of mature trees (T22 to T28) which include an elm G26) and a sycamore (T36).
- 8.77 Some pruning and the removal of lower branches of the Beech Tree (T44) has already been undertaken to allow large vehicles relating to the demolition to enter the site.

- 8.78 The proposed development would have a smaller footprint than the former buildings on the site and as such would result in the development being located further away from the Beech Tree (T44).
- 8.79 The Council's Arboriculturist carried out a site visit at the time that the former housing office as being demolished to ensure that the retained trees and associated root areas were protected correctly.
- 8.80 Subject to the compliance with a number of conditions overall it is not considered that the proposal would have an adverse impact upon the retained trees located within the site or within the vicinity of the site.
- 8.81 Soft and hard landscaping is proposed between the new building and the public footpath between Lewes Road and Selsfield Drive and around the retained Beech Tree. Full landscape details, including replacement trees, can be obtained via a condition if overall the proposal is considered acceptable.
- 8.82 **Sustainable Transport:**  
Policies require development proposals to provide for the demand for travel which they create and maximise the use of public transport, walking and cycling.
- 8.83 The site fronts onto Lewes Road and is located within a defined sustainable urban transport corridor, well served by local public transport links, namely buses and close to train station.
- 8.84 Pedestrians  
An accessible ramp and separate steps would be provided from the footway on Lewes Road to the ground floor level of the building, with a proposed access path to the proposed Selsfield Drive spur and parking area. These proposed access points/routes are considered acceptable.
- 8.85 Regarding the Selsfield Drive frontage steps and a separate accessible ramp are proposed. However, Selsfield Drive itself does not have a footway. However with low flows of vehicles it is considered by the Council's Highway Officer that the area can effectively operate as a "shared space" and as such, whilst not ideal, it is accepted in this case.
- 8.86 Cycle Parking  
For a development of the nature and scale proposed 30 long-stay and 10 visitor cycle spaces are required. The proposal includes 40 long-stay cycle parking spaces, which whilst welcomed, would comprise solely of two-tier racks which are not universally accessible and are not considered suitable for a number of non-standard forms of cycling. The over-provision of spaces appears to give enough space to achieve the minimum quantum required but allowing changes to ensure improved accessibility to meet the quality standards set out in policy TR14. Revised details can be sought by condition if overall the proposal is considered acceptable.
- 8.87 Separate visitor cycle parking is proposed at the front and rear of the building of a provision which exceeds the minimum standards, which is welcomed.

- 8.88 Parking  
The application site is located in parking zone D, the control of which only applies on match or event days.
- 8.89 The proposal would result in the removal of 13 existing end-on parking spaces (that appear to have been nominally allocated to the housing office but may have been used informally by residents, especially since the closure of the office) and 8 garages.
- 8.90 15 dedicated parking spaces for future occupiers of the proposal would be provided as part of the development. Such provision is below the Council's maximum standards as set out in SPD14
- 8.91 The proposal also includes improvements to the existing on-street parking on Selsfield Drive by improving the width of the remaining carriageway while still accommodating parked cars. While this is welcomed in principle, it is noted that this would reduce the parking capacity by four spaces.
- 8.92 The submitted Transport Assessment (TA) sets out a parking survey, undertaken using the industry-standard "Lambeth Methodology". The survey, undertaken in early 2016 and covering an area 200m (or 2.5 minutes' walk) from the development site, included a large number of locations which the surveyor considered too narrow for parking. However, it appears that parking in such places is common practice and so it is correct to include these areas in the analysis.
- 8.93 The conclusion from the survey analysis is that parking occupancy was no more than 50%, and that in the order of 90 spaces remained vacant. Therefore, in the worst case that assumes the garages are used for parking, the loss of 25 spaces (13 housing office spaces, 8 garages and 4 on-street spaces) would increase parking occupancy to 64%.
- 8.94 The Council's Highway Officer has concluded that there is little risk of overspill parking from the 15 spaces proposed as part of the development.
- 8.95 Details of vehicle electric charging points can be obtained by condition.
- 8.96 Changes to parking places on the public highway of Selsfield Drive must be covered by an agreement with the Highway Authority under Section 278 of the Highways Act 1980.
- 8.97 Waste Storage/Collection  
As part of the proposal an additional communal bin container, for residual waste, would be provided adjacent to Selsfield Drive, for use by the occupiers of the new building, as well as existing residents in addition to an allocated area for recycling being created a part of the proposal. Full details of the proposed recycling storage area can be obtained via a condition.



- 8.98 It is noted that the Transport Officer refers to the opportunity to provide a turning circle however this has been reviewed by the applicant and is not considered to be a viable option. The applicant has stated that there is restricted space in part due to competing demands requiring the retention of the Grade A Beech Tree which would not allow significant changes to the road layout that would be required to facilitate refuse vehicle turning. As such the access arrangements for refuse/recycling vehicles would remain as current, namely vehicles driving into the arm of Selsfield Drive but reserving out.
- 8.99 The existing pattern of refuse collection on Selsfield Drive, which was accepted in pre-application consultation with City Clean to serve the proposed development, would remain. Furthermore the applicant considers that the proposal to remove on-street parking from Selsfield Drive, through the provision of off-street parallel parking bays, would significantly improve the safety of this manoeuvre by effectively doubling the available width of carriageway on Selsfield Drive, improving both access and egress. A vehicle racking analysis drawing has been submitted regarding this element.
- 8.100 Impact on Transport Networks  
Trip generation for the currently permitted use (A2 office) is based on a very small selection of comparator sites, while for the proposed development relies on a slightly larger sample of sites but all with considerably higher car ownership than is anticipated here based on census data discussed above. However, the resulting outputs are broadly in line with expectations and so can reasonably be relied upon.
- 8.101 The submitted TA concludes that the net trip generation would have negligible impacts on transport networks, which is considered a reasonable conclusion by the Council's Transport Officer.
- 8.102 Other Highways Issues  
The submitted TA does not contain an assessment of demand for delivery and servicing, but demand is not likely to be high and adequate space appears to be available for this in Selsfield Drive. Neither a Travel Plan nor a Construction Environmental Management Plan are provided as part of the submission and should be secured by condition.
- 8.103 The required travel plan should follow best practice guidance and include, among other things, the following measures:
- Two years' membership of the local car club in order to encourage a low level of car ownership
  - A 12-month season ticket for buses in Brighton & Hove, to support sustainable travel
- 8.104 **Sustainability:**  
City Plan Policy CP8 requires that all new development achieves minimum standards for energy and water performance as well as demonstrating how the proposal satisfies an exhaustive range of criteria around sustainable design features.

- 8.105 It is stated within the application that each dwelling would achieve a reduction in carbon emissions of 19% against 2013 Part L Building Regulations requirements in addition to each residential unit built achieving, as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption. These standards can be secured via a condition should overall the proposal be considered acceptable
- 8.106 Most of the proposed inhabited rooms (e.g. kitchen/living room) would be located on the southern side of the building and the rooms with low heating and lighting demand would be located on the northern side of the building.
- 8.107 The roof of the proposed development has been designed to accommodate photovoltaic panels, further details of which can be secured via a condition if overall the proposal was considered acceptable.
- 8.108 **Other Considerations:**
- 8.109 Archaeology  
The proposed development is within an Archaeological Notification Area defining an area of prehistoric, Roman and medieval activity, including human burials. The site has not been subject to an intrusive archaeological investigation, but the submission does include an archaeological desk based assessment which concludes that;
- 8.110 *“The proposal site itself was developed since the mid-20th century, though the development appears not to have been too intrusive, comprising several smaller structures, some of which are prefabricated”.*
- 8.111 Geo-technical data also submitted with the application identifies areas of potential survival of the original topography of the site, which may contain archaeological remains.
- 8.112 In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject of a programme of archaeological works, which can be ensured via conditions.
- 8.113 Ecology  
Surveys submitted as part of the application have been carried out in accordance with best practice and are sufficient to inform appropriate mitigation, compensation and enhancement. The County Ecologist has confirmed that due to the nature and scale of the proposed development, there are unlikely to be any impacts on any sites designated for their nature conservation interest. The site is considered to be of relatively low ecological value and as such, the proposed development would not result in the loss any important habitats.
- 8.114 There is an outlier badger sett on land adjacent to the site. Although currently disused, given the transient nature of the species and their known activity in the area, precautions should be taken during development to avoid badgers being trapped or harmed. There should be no below ground digging within 20m of the

sett entrance and best practice working methods should be employed during construction.

- 8.115 The site offers opportunities for enhancement. It is noted that the Design and Access Statement refers to the provision of 3 bird boxes and 2 insect boxes. The landscaping scheme should use species of known value to wildlife. Further details regarding the enhancement of the site for biodiversity can be sought via the attachment of a condition requiring an Ecological Design Strategy.
- 8.116 It is noted that the County Ecologist refers to the benefits to biodiversity from the installation of a green roof with the proposed PV panels however the applicant has stated that they contend that such installation would not be a technically viable option in this case. It is stated that to achieve the required 18kWp output determined as necessary in the Sap Assessment the extent of PV array requires a significant proportion of the roof area to be covered in PV panels.
- 8.117 In order to facilitate the incorporation of a viable green roof, the spacing between panels, angle of incline and height above roof deck would all need to be increased in order to allow sufficient light penetration to allow the green roof to flourish. The cumulative effect of this would impact both visually in terms of increased height of PV installation, roof finish and associated parapet but also the increased spacing of panels would result in a reduction of panel numbers and not allow the development to meet the required PV output of 18kWp.
- 8.118 This lack of residual roof area available to maximise benefit from a green roof is further exacerbated by maintenance access requirements to the roof and associated interruptions to the roof-scape. The limited area available to take a green roof, free of obstructions, is as a direct result of seeking to minimise the building footprint, resulting in a relatively small roof/overall floor area ratio and restricted opportunity to deliver a technically viable green roof.
- 8.119 Overall it is not considered that the lack of the provision of a green roof warrants refusal of the application.
- 8.120 Construction Environmental Management Plan (CEMP)  
A condition is recommended requiring a CEMP in order to protect the amenities of local residents during the construction phase (demolition has already been undertaken), to mitigate the construction phase highway impacts including measures to reduce deliveries and vehicle movements and to minimise and manage waste produced during the construction.
- 8.121 Land Contamination  
As part of the application a Ground Investigation Report has been submitted. Subject to compliance with a recommended condition regarding any unexpected land contamination findings encountered during the construction process Council's Environmental Health Officer agrees with its contents and report recommendations.
- 8.122 Flood Risk

Due to the surface water risk on Lewes Road adjacent to the site the Council's Flood Risk Officer has stated that it is important that the discharge rates are reduced by 50%, as documented in the Council's Strategic Flood Risk Assessment (January 2012). Such requirement can be dealt with via a condition should overall the proposal be considered acceptable.

**8.123 Developer Contributions**

The financial Planning Obligations set out above regarding education, open space, sports provision, local employment scheme and transport have been calculated based on the methodology set out in the Council's Developer Contributions Technical Guidance (March 2017) and are required in accordance with policies of the Brighton & Hove Local Plan and Brighton & Hove City Plan Part One.

**8.124 Conclusion**

The loss of the former housing office building and associated structures is considered acceptable. Whilst the proposal would be taller than the immediate properties surrounding the site, which would cause some minor harm to the character and appearance of the wider area including the setting of the nearby Listed Building (the harm to the Listed Building would however be less than substantial under the terms of the NPPF), in addition to only providing 1 and 2 bedroom units and causing some loss of light and outlook to a few of the surrounding properties, significant weight in this case is given to the fact that the proposal would provide 30 additional residential units in the city, all of which would be affordable units of a size compliant with the government space standards.

8.125 Overall it is considered that the scheme would deliver substantial benefits which would outweigh the harm identified caused by the proposal.

8.126 Approval of planning permission is therefore recommended subject to the completion of a s106 planning legal agreement and to the conditions recommended above.

**9. S106 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 provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy CP7 of the Brighton & Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
2. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy CP7 of the Brighton & Hove 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 capacity of local schools required as a result of this proposed development contrary to policies DA5 and CP7 of the Brighton & Hove City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
4. 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.
5. 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.

## **10. EQUALITIES**

- 10.1 The proposal would provide 30 affordable housing units.
- 10.2 If overall considered acceptable conditions are recommended which would ensure compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and that a minimum of 5 percent of the overall development would be built to Wheelchair Accessible Standards.
- 10.3 Ramped and steeped access is provided from both Selsfield Drive and Lewes Road giving level access to the building entrances at both Lower Ground Floor (from Lewes Road) and Upper Ground Floor (from Selsfield Drive). Furthermore 2 no. passenger lifts would provide access between all floor levels.



# **ITEM B**

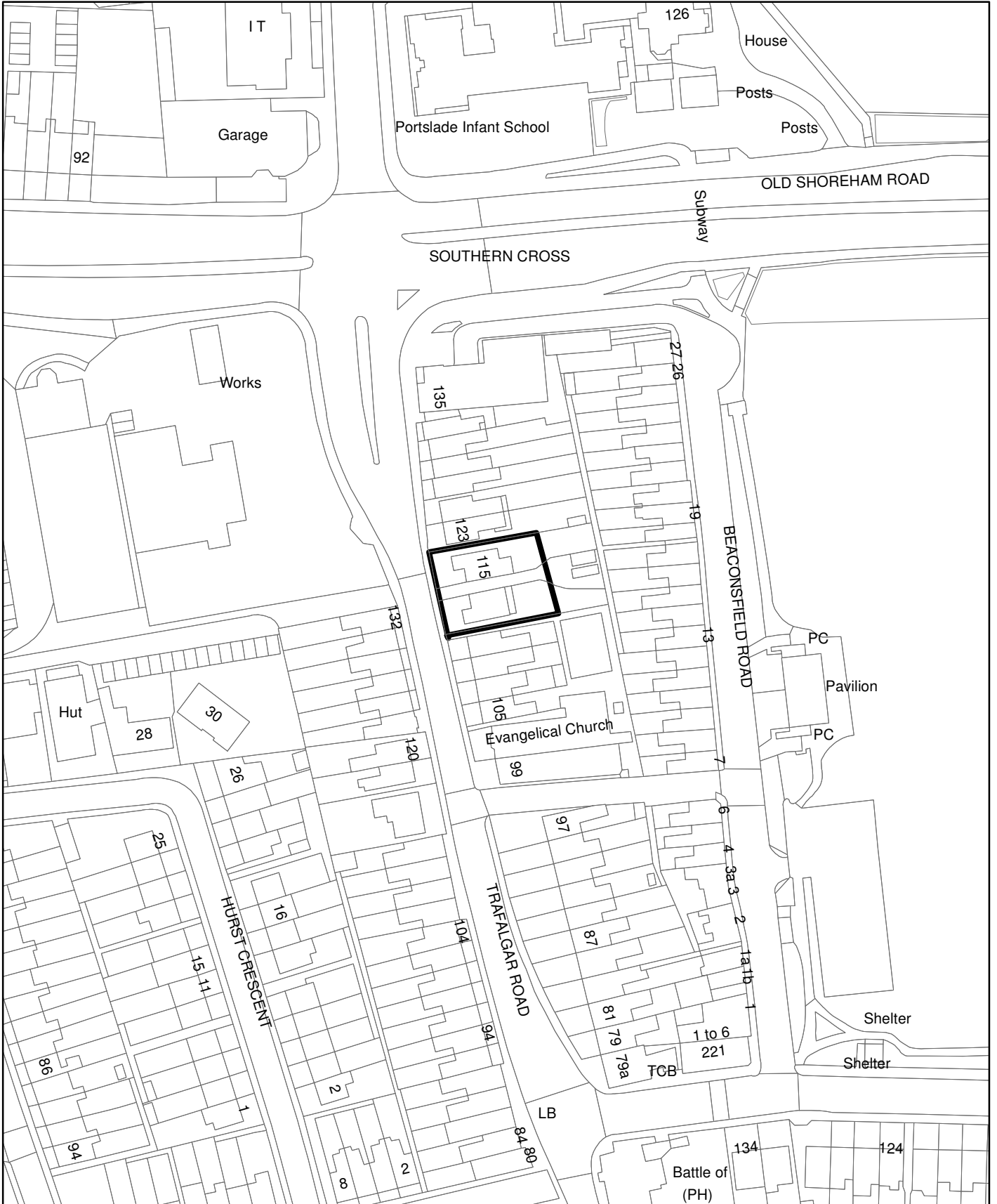
**113-115 Trafalgar Road  
Portslade  
BH2017/02333**

**DATE OF COMMITTEE: 12<sup>th</sup> September 2018**





# 113-115 Trafalgar Road Portslade



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2017/02333</b>	<b><u>Ward:</u></b>	<b>South Portslade</b>
<b><u>App Type:</u></b>	<b>Outline Application All Matters Reserved</b>		
<b><u>Address:</u></b>	<b>113-115 Trafalgar Road Portslade BN41 1GU</b>		
<b><u>Proposal:</u></b>	<b>Outline application with all matters reserved for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping.</b>		
<b><u>Officer:</u></b>	Laura Hamlyn, tel: 292205	<b><u>Valid Date:</u></b>	10.07.2017
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	09.10.2017
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	28.02.2018
<b><u>Agent:</u></b>	Mr Paul Gosling 78 Potters Lane Burgess Hill RH15 9JS		
<b><u>Applicant:</u></b>	Mr H Cooper 115 Trafalgar Road Portslade BN41 1GU		

## 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 REFUSE** planning permission should the S.106 Planning Obligation agreed by Planning Committee on 7<sup>th</sup> February 2018 not be completed on or before 4<sup>th</sup> January 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in Section 3 of this report.

## 2. Considerations & Assessment

- 2.1 This application sought outline planning permission for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats with associated landscaping. The development would have provided on site provision of 2no one bedroom units and 2no studio units.
- 2.2 Members voted to approve the application at the Planning Committee meeting on 7<sup>th</sup> February 2018 (see Committee Report set out in Appendix 1 below) subject to the completion of a S.106 Legal Agreement to secure the following:
- On site provision of 2no one bedroom flats and 2no studio units, of which all four would be affordable housing for rent
  - A contribution of **£19,635** towards open space and indoor sport provision.
  - A contribution of **£10,800** towards sustainable transport infrastructure improvements within the vicinity of the application site.
  - A contribution of **£2,200** towards the Council's Local Employment Scheme,
  - A **Construction Training and Employment Strategy** including a commitment to using 20% local employment during the demolition and construction phases of the development,
- 2.3 Since the committee meeting, the Local Planning Authority has sought to progress the Legal Agreement to completion. Unfortunately in this case the

Applicant has so far not been able to complete the Legal Agreement. There have been extended periods of inactivity.

- 2.4 A draft S.106 was provided to the Agent for the application on 7<sup>th</sup> March 2018, and this was followed up on 21<sup>st</sup> March 2018. The case officer followed up the status of the draft S.106 on 13<sup>th</sup> July 2018, 16<sup>th</sup> July 2018, and 26<sup>th</sup> July 2018.
- 2.5 The Solicitor acting on behalf of the Applicant has since advised that “*the property is on the market for sale to a developer*”, and that they were “*reluctant [...] to agree the form of s106 without the input of the purchasing solicitors*” (email dated 1<sup>st</sup> August 2018). In a subsequent email (dated 2<sup>nd</sup> August 2018) the Solicitor indicated that “*a period of 3 months grace to allow [their] client to find a purchaser and complete the legals*” would be a reasonable timeframe. This 3 month period would end on 2<sup>nd</sup> November 2018. The Council’s Solicitor confirmed on 21<sup>st</sup> August 2018 there had been no further contact with the applicant or agent on the progress of the s106 agreement.
- 2.6 The Local Planning Authority cannot keep the application under consideration indefinitely and therefore the application is returned to committee.
- 2.7 In the absence of a Legal Agreement to secure necessary measures in regard to affordable housing, open space and indoor sport provision, sustainable transport infrastructure, and the Local Employment Scheme, the proposed development does not comply with Local Planning Policies and will not mitigate the impact resulting from the development. It is therefore recommended that the Head of Planning be authorised to refuse planning permission should the S.106 Planning Obligation not be completed on or before 4<sup>th</sup> January 2019, this being the expiry of a 16 week period the Local Planning Authority would normally give for the completion of a s106 agreement.
- 2.8 It is noted that since the decision on 7<sup>th</sup> February 2018, the Council’s five year housing land supply position has changed. It was previously considered that the Council could demonstrate a 5.6 year supply.
- 2.9 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).
- 2.10 In the absence of a detailed Viability Assessment, it is considered that the change in the demonstrable five year housing land supply does not materially affect the recommendation for this application.

### **3. S.106 Agreement**

3.1 In the event that the S.106 Planning Obligation has not been completed by 4<sup>th</sup> January 2019, the application shall be refused for the following reasons:

1. The proposed development fails to provide an appropriate provision of affordable housing, contrary to policies CP7 and CP20 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.

2. The proposed development fails to address the additional impacts on sustainable transport infrastructure, the needs for open space and indoor sport improvements, and fails to secure apprenticeships, training and job opportunities for local residents, contrary to policies CP2, CP7, CP9, CP16 and CP17 of the Brighton & Hove City Plan Part One, and the City Council's Developer Contributions Technical Guidance.

## Appendix 1 – Report to Planning Committee 7<sup>th</sup> February 2018

<b><u>No:</u></b>	<b>BH2017/02333</b>	<b><u>Ward:</u></b>	<b>South Portslade Ward</b>
<b><u>App Type:</u></b>	<b>Outline Application All Matters Reserved</b>		
<b><u>Address:</u></b>	<b>113-115 Trafalgar Road Portslade BN41 1GU</b>		
<b><u>Proposal:</u></b>	<b>Outline application with all matters reserved for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping.</b>		
<b><u>Officer:</u></b>	Wayne Nee, tel: 292132	<b><u>Valid Date:</u></b>	10.07.2017
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	09.10.2017
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	28.02.2018
<b><u>Agent:</u></b>	Mr Paul Gosling 78 Potters Lane Burgess Hill RH15 9JS		
<b><u>Applicant:</u></b>	Mr H Cooper 115 Trafalgar Road Portslade BN41 1GU		

### 1. RECOMMENDATION

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

#### 1.2 S106 Heads of Terms

- Affordable Housing: On-site provision of 2 no. 1-bedroom units, and 2 no. studio units, of which all 4 will be affordable rent.
- A contribution of **£19,635** towards open space and indoor sport provision.
- A contribution of **£10,800** towards sustainable transport infrastructure improvements within the vicinity of the application site.
- A contribution of **£2,200** towards the Council's Local Employment Scheme,
- A **Construction Training and Employment Strategy** including a commitment to using 20% local employment during the demolition an construction phases of the development,

#### 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 only	340.12.03a		10 July 2017

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters as defined in condition 3 below, whichever is the later.

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

3. 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.

4. No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
- i) The phases of the Proposed Development including the forecasted completion date(s)
  - ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
  - iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
  - iv) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
  - v) Details of hours of construction including all associated vehicular movements
  - vi) Details of the construction compound
  - vii) A plan showing construction traffic routes
  - viii) An audit of all waste generated during construction works

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

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

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

- a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice; And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,
- 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 BS 10175:2011+A1:2013; And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,
- 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 a scheme shall include nomination of a competent person to oversee the implementation of the works.

(ii) The development permitted shall not be occupied or brought into use until a written verification report by a competent person required and approved under the provisions of condition (1)c that any remediation scheme 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). If not otherwise agreed in writing by the local planning authority the verification report shall comprise:

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

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

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

6. No development shall take place until full details of site levels of the proposed development relative to surrounding properties have been submitted to and approved in writing by the Local Planning Authority. All levels shall be in metric units and related to Ordnance Survey Datum. The development shall be constructed in accordance with the agreed details.

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

7. No development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme for the soundproofing of the building has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the



approved details prior to the first occupation of the development and shall thereafter be retained as such.

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

8. No development above ground floor slab level of any part of the development hereby permitted shall take place until a written scheme on how and where ventilation will be provided to the residential accommodation hereby approved, including specifics of where the clean air is drawn from and that sufficient acoustic protection is built into the system to protect end users of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure compliance with Building Regulations as well as suitable protection in terms of air quality, and shall provide a fresh air source to future occupiers which does not require the opening of windows facing onto / close to Trafalgar Road.  
**Reason:** To ensure future occupiers benefit from a good standard of amenity and do not suffer undue noise disturbance, to provide fresh air to all future occupiers, and to comply with policies SU9, SU10 and QD27 of the Brighton and Hove Local Plan.
9. 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. For all questions about the above please contact the Case Officer named above.
10. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the City Plan Part One.
11. None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the City Plan Part One.
12. The dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

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

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

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The location plan on drawing no. 340.12.03a is the only drawing approved by this application and the Block Plan, Floorplans and Elevations shown on this drawing are indicative only.

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site comprises two detached bungalows on land to the east of Trafalgar Road. The site incorporates an open frontage with central crossover providing access to the rear of the site and detached garages (incidental to the residential bungalows). The immediately surrounding area is predominantly residential characterised by terraced dwellinghouses.
- 2.2 Outline planning permission is sought, with all matters reserved, for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping. An indicative scheme is shown in the submitted drawings; this scheme is indicative only, detailed consent is not sought.

**3. RELEVANT HISTORY**

**BH2016/01784** Outline application with all matters reserved for the demolition of existing bungalows and erection of 8no one bedroom flats and 4no studio flats (C3) with associated landscaping - Appeal against non-determination Dismissed 22/06/2017

Under this appeal the Inspector:

- Considered the principle of development to be acceptable;

- Considered the submitted indicative scheme was not appropriate in design terms but that a suitable design could be proposed;
- Considered that the failure to provide affordable housing / address policy CP20 warranted the refusal of planning permission;
- Considered that insufficient information had been provided in respect of the financial contributions sought.

**BH2013/03498** - Outline application for the demolition of existing bungalows and erection of 4no. three bedroom houses - Approved 04/06/2014

**BH2013/01231** - Outline application for the demolition of existing bungalows and erection of 5no three bedroom houses. Refused 04/07/2013.

Land rear of 113 Trafalgar Road

**BH2006/01199**: Erection of new dwelling to rear. Refused 05/06/2006, dismissed at appeal 09/02/2007.

Land rear of 115 Trafalgar Road

**BH2006/01201**: Demolition of garage to rear and erection of new dwelling. Refused 05/06/2006, dismissed at appeal 09/02/2007.

**BH2005/05533**: Erection of two storey dwelling on land to rear of 115 Trafalgar Road. Refused 16/12/2005.

**BH2004/01082/FP**: Extension to rear and first floor. Approved 27/05/2004

#### 4. REPRESENTATIONS

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

- Roof height would result in overshadowing and loss of light to adjoining properties;
- Overlooking and loss of privacy to adjoining properties;
- Lack of proposed parking;
- The design would be at odds with surrounding properties;
- Decrease the value of neighbouring properties;
- Illumination of development would affect neighbours;
- Increased noise and disturbance
- Lack of bin and cycle storage details
- Would affect the foundations of neighbouring properties

#### 5. CONSULTATIONS

##### External

5.1 **Sussex Police:** Comment  
Recommend standard security measures.

5.2 **County Archaeologist:** No objection

Although this application is situated within an Archaeological Notification Area, based on the information supplied, I do not believe that any significant below ground archaeological remains are likely to be affected by these proposals. For this reason I have no further recommendations to make in this instance.

### **Internal**

#### 5.3 **Planning Policy: Comment**

A previous application BH2016/01784, also for Outline permission with all matters reserved for the demolition of existing bungalows and erection of 8 no. one bedroom flats and 4 no. studio flats (C3) with associated landscaping, was dismissed at appeal (against non-determination) in June 2017, on the sole reason that the appellant had failed to provide an appropriate mechanism to secure much needed affordable housing.

5.4 With respect of the current application, in accordance with policy CP20 and the recent appeal decision, an appropriate financial contribution for affordable housing should be sought.

5.5 The proposed housing mix, 8 x 1 bedroom flats and 4 x studio flats, was not considered by the Appeal Inspector to have an adverse impact on the urban grain of the area or the local neighbourhood and the Inspector considered that "From the indicative plan submitted with the application it would appear that a development of this number of residential units could be successfully achieved within the site without having an excessive site coverage or height".

5.6 **Housing:** Awaiting comments.

#### 5.7 **Sustainable Transport: Comment**

No objections to this application subject to the inclusion of the necessary conditions and the recommended S106 contribution.

5.8 Required conditions:

- Full details of appropriate cycle parking
- Full details of the proposed access and parking arrangements including disabled parking.

5.9 S106 requirements:

Contribution of £10,800 which shall go towards:

- Real Time Passenger Information sign at southbound Battle of Trafalgar bus stop on Trafalgar Road

#### 5.10 **Environmental Health: Comment**

The site is 30m from a historic landfill site, a full land contamination condition is therefore required.

5.11 A Construction Environment Management Plan (CEMP) will be required due to the close proximity of sensitive receptors.

- 5.12 **Air Quality Officer: Comment**  
Any proposed ground floor rooms could be within a few metres of Trafalgar Road; a busy haulage and bus route close to the Southern Cross Junction in the Air Quality Management Area. At this location accelerating (southbound) and queuing (northbound) traffic with tailpipe emissions is likely for many hours of the year.
- 5.13 With reference to BHCC policy SU9 it is advisable that bedrooms should be set back from the roadside to minimise future residential exposure to long term airborne pollution. Mitigation should be sought to avoid exposure of any ground floor rooms to nitrogen dioxide and fine particulate matter i.e. poor air quality detrimental to long term health.
- 5.14 A diagram setting out air intakes from the top and rear of the development should be provided, and hermetically sealed windows on the ground and first floors should be secured by condition.
- 5.15 **Economic Development: Comment**  
This proposed development of 8 x 1no. bed dwellings and 4 x studios, will provide accommodating for at least 12 individuals and will make a small contribution to the city's challenging housing targets.
- 5.16 Should this application be approved City Regeneration requests the submission of an Employment and Training Strategy in respect of the demolition phase of the development and a more comprehensive strategy in respect of the construction phase, to be submitted at least one month prior to site commencement, highlighting how the development will provide opportunities for employment and training for local people. Also, if approved, in accordance with the council's Developer Contributions Technical Guidance, City Regeneration requests a contribution of £2,200 through a S106 agreement, towards the delivery of the council's Local Employment Scheme. The contributions are based on the information provided in the planning application and supporting evidence.
- 5.17 **County Ecologist: No objection**  
No biodiversity checklist was submitted with the application. However, from the information available, it is considered likely that a checklist would be negative and as such, there is no requirement to submit a biodiversity report with the application. Given the location, nature and scale of the proposed development, there are unlikely to be any significant effects on any sites designated for their nature conservation value. The site is unlikely to support any protected species. If protected species are encountered during development, work should stop and advice should be sought on how to proceed from a suitably qualified and experienced ecologist.
- 5.18 The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF. Opportunities include the provision of a green (biodiverse) roof and bird boxes, and the use of species of known wildlife value in the landscape scheme. The green roof should be chalk grassland to help meet Biosphere targets. Advice on appropriate

species for the green walls can be found in the Council's SPD 11, Annex 7 Notes on Habitat Creation and Enhancement. Where possible, native species of local provenance should be used. Bird boxes should target species of conservation concern.

5.19 In summary, provided the recommended mitigation measures are implemented, the proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF.

5.20 **Education: Comment**

The development in this case is small with just 8 1 bed flats and 4 studio flats. A development of this size would generate just one or two pupils for each of the primary and secondary phases. At the present time there is sufficient capacity on the local primary schools to accommodate this level of additional pupil numbers. The development is in the catchment area for PACA which also has sufficient capacity to accommodate any pupils generated by this development. As a result a contribution towards the cost of education infrastructure is not sought.

5.21 **Public Art: Comment**

An artistic element / component is not required in this case due to the scale of development proposed.

**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  
CP5 Culture and tourism  
CP7 Infrastructure and developer contributions  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP10 Biodiversity  
CP11 Flood risk  
CP12 Urban design  
CP13 Public streets and spaces  
CP14 Housing density  
CP16 Open space  
CP17 Sports provision  
CP18 Healthy city  
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  
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  
SPD06 Trees & Development Sites  
SPD11 Nature Conservation & Development  
SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

8.1 The application is outline with all matters reserved for further approval and therefore the main considerations in the determination of this application relate to the principle of constructing 8no one bedroom flats and 4no studio flats on the site. An indicative scheme is shown in the submitted drawings; this scheme is indicative only, detailed consent is not sought.

### **8.2 Background**

The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. 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 2016 SHLAA Update (February 2017) which demonstrates a

5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.

**8.3 Principle of Development:**

The principle of development has been established through the appeal decision issued in respect of application ref. BH2016/01784, the key section of this decision being:

*'19. From the indicative plan submitted with the application it would appear that a development of this number of residential units could be successfully achieved within the site without having an excessive site coverage or height. Whilst I share the concerns of the Council in terms of the design and appearance of the building in the indicative scheme, this is not a matter before me.*

*20. Subject to a suitable design which would be considered at reserved matters stage (should I be minded to allow the appeal), for the above reasons the proposal would respect the character of the area and would reflect the varied urban grain of the locality. The development would therefore accord with Policies CP12, CP19 and SA6 of the CP which amongst other matters seek to improve housing choice and maintain balanced communities.'*

8.4 The appeal was dismissed on the grounds that the development would not, in the absence of a completed section 106 obligation, provide an appropriate mechanism to secure much needed affordable housing contrary to Policy CP20.

8.5 In this context, whilst the council did raise concerns previously in respect of the mix of unit sizes proposed, it is considered that the principle of development has been established and subject to securing appropriate affordable housing and other measures through a legal agreement and conditions, it would not be reasonable for the council to refuse this application which seeks outline permission only with all matters reserved.

**8.6 Affordable Housing:**

The previous appeal was dismissed as the issue of affordable housing provision was not resolved in the applicant's submissions. Under the current application the submitted application form states that of the twelve units proposed four would be affordable rent units comprising two one-bedroom flats and two studio flats.

8.7 Policy CP20 requires that schemes of 10-14 units provide 30% onsite affordable housing provision or an equivalent financial contribution. In this case a net increase of ten units is proposed and therefore onsite provision of three units would satisfy the requirements of CP20. There is however also a requirement to provide an appropriate mix of tenures; in this case only affordable rent units are proposed, no intermediate housing is proposed. This concern is however counterbalanced by the fact that four affordable units are proposed and overall it is considered that the proposed provision of affordable housing can be supported provided it is secured through legal agreement.



- 8.8 A financial contribution of £390,000 towards affordable housing would also have been acceptable as an equivalent contribution, in this case however onsite provision is proposed and is considered acceptable as set out above.
- 8.9 **Developer Contributions:**  
Developer contributions are sought in accordance with policy objectives as set out in the City Plan Part One and the remaining saved policies in the Brighton & Hove Local Plan 2005. The contributions will go towards appropriate and adequate social, environmental and physical infrastructure to mitigate the impact of new development. Contributions are required as follows in accordance with City Plan policy CP7 and the Council's adopted Developer Contributions Technical Guidance:
- Open Space and Indoor Sport: contribution of £19,635
  - Sustainable Transport: contribution of £10,800
  - Local Employment and Training: contribution of £2,200
- 8.10 At the time of the previous appeal the Inspector considered that insufficient information had been submitted to justify the contributions which were sought at this time. The contributions set out are supported in detail by the Council's Developer Contributions Technical Guidance and justification and identified spend for the sustainable transport contribution sought have been set out in the Transport Officers consultation response. Identified spends for the Open Space and Indoor Sport contributions are currently awaited and will be reported to members at committee.
- 8.11 **Design/visual impact:**  
The indicative scheme submitted at the time of the previous application was considered to be inappropriate in terms of design and appearance by the council and the Inspector at appeal. The same indicative scheme has been submitted in support of the current application and again this scheme is considered inappropriate in design terms.
- 8.12 The application however seeks outline consent only with all matters reserved and therefore the detailed design of the proposed scheme cannot be considered. At appeal the Inspector considered that a development of the number of residential units proposed could be successfully achieved within the site without having an excessive site coverage or height. Therefore the principle of the development has been accepted and design issues would be considered at reserved matters stage.
- 8.13 **Neighbouring amenity:**  
Whilst the Inspector's report does not address this issue in detail the principle of development was accepted and the Inspector considered that the development would not have a harmful impact on the local neighbourhood. It is therefore considered that the Inspector envisaged that a development could be designed which would not cause harm to neighbouring amenity.
- 8.14 **Standard of accommodation:**

The proposed units as laid out in the indicative scheme are undersized and would provide a poor standard of accommodation. These detailed layouts are not however a subject of consideration under the outline application submitted. Appropriate unit layouts would be secured at reserved matters stage. Conditions are recommended to secure sound insulation and ventilation measures due to the proximity of the proposed development to a busy road. Access standards are also recommended to be secured by condition.

#### 8.15 **Other matters:**

Conditions are recommended to secure:

- Full details of reserved matters;
- A land contamination report and any required mitigation measures;
- A Construction and Environment Management Plan (CEMP);
- A scheme of ecological improvement measures;
- Standards for energy and water consumption;
- Full details of cycle storage facilities.

### 9. **CONCLUSION**

9.1 The principle of the development proposed has been previously accepted at appeal; this is the primary matter of consideration under the outline application submitted. Approval is therefore recommended subject to the completion of a legal agreement to secure affordable housing provision and necessary contributions. All detailed matters would be secured by condition and at reserved matters stage.

### 10. **EQUALITIES**

10.1 Access Standards are recommended to be secured by planning condition.

### 11. **DEVELOPER CONTRIBUTIONS**

11.1 **Sustainable Transport:** Based upon the current adopted Developer Contributions Technical Guidance and established formulae, the securing of Travel Packs and an £10,800 contribution to sustainable transport infrastructure to be allocated towards the following:

- Real Time Passenger Information sign at southbound Battle of Trafalgar bus stop on Trafalgar Road

11.2 **Open space and indoor sport:** Based upon the current adopted Developer Contributions Technical Guidance and SPGBH9, £19,635 to be allocated to the following:

- Children's' Play – Victoria Park and/or Vale Park, Easthill Park, Mile Oak Recreation Ground
- Parks Gardens/Natural Semi Natural/Amenity - Victoria Park and/or Vale Park, Easthill Park

- Outdoor Sport – Victoria Park and/or Vale Park, Mile Oak Recreation Ground, Portslade Sports Centre
- Indoor Sport – Portslade Sports Centre and/or King Alfred, Withdean Leisure Centre
- Allotments - Foredown and/or Mile Oak, Camp Site, Eastbrook, St Louie

11.3 **Local Employment scheme:** Based upon the current adopted Developer Contributions Technical Guidance, £2,200 plus a commitment to 20% local employment for the demolition and construction phases.



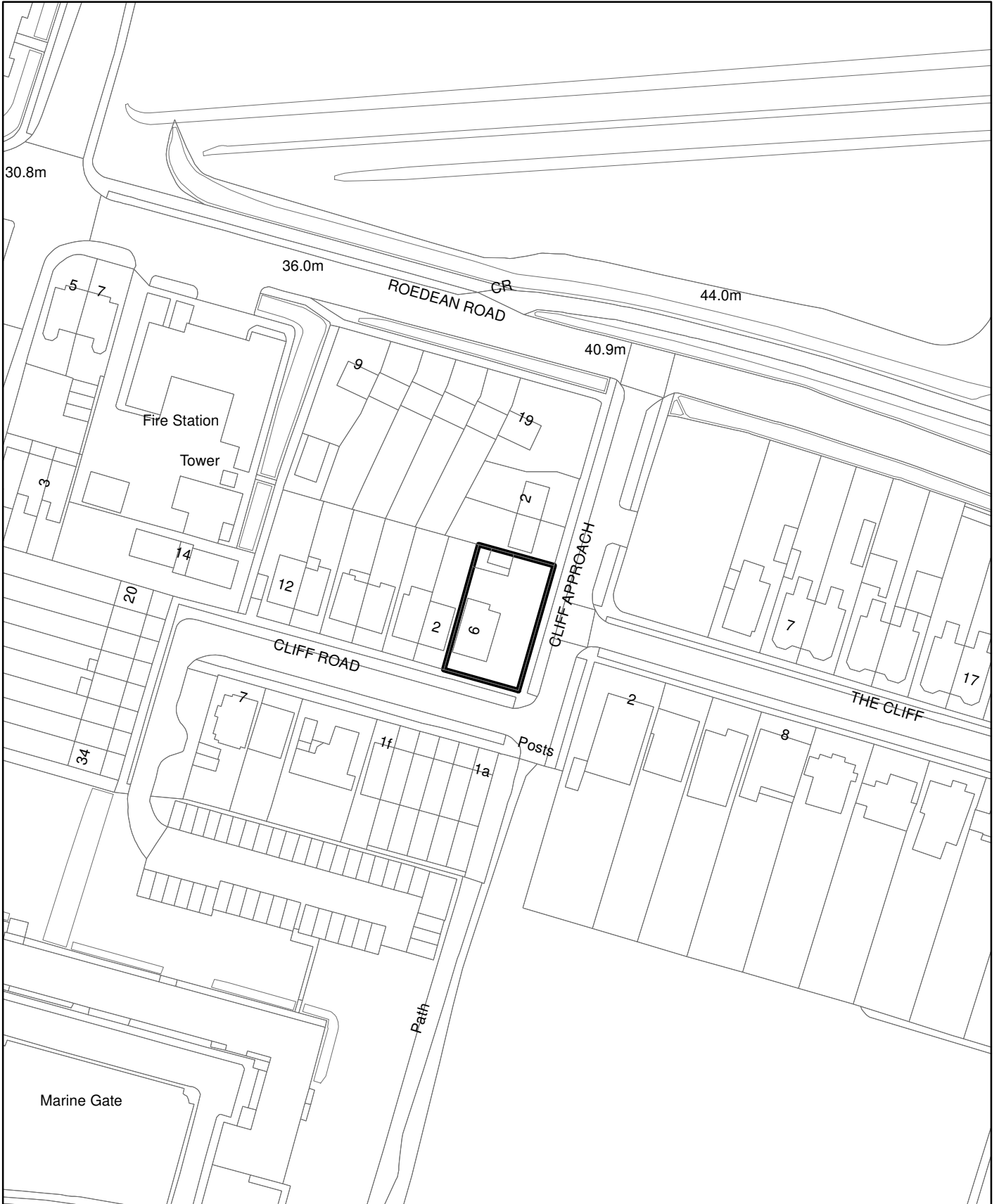
# **ITEM C**

**6 Cliff Approach,  
Brighton  
BH2018/00648  
Full Planning**

**DATE OF COMMITTEE: 12<sup>th</sup> September 2018**



# 6 Cliff Approach Brighton



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2018/00648</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>6 Cliff Approach Brighton BN2 5RB</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing single dwelling and erection of 2no. two bedroom flats &amp; 2no. three bedroom flats.</b>		
<b><u>Officer:</u></b>	Charlotte Bush,	tel:	<b><u>Valid Date:</u></b> 27.03.2018
	292193		
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	22.05.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	29.09.2018
<b><u>Agent:</u></b>	Deacon And Richardson Architects 253 Ditchling Road Brighton BN1 6JD		
<b><u>Applicant:</u></b>	Mr Toby Richardson C/O Deacon And Richardson Architects Ltd 253 Ditchling Road Brighton BN1 6JD		

## 1. RECOMMENDATION

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

Conditions:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	3579.PL.01	A	28 February 2018
Floor Plans Proposed	3579.PL.01	A	28 February 2018
Elevations Proposed	3579.PL.02 FRONT /REAR ELEVATION		28 February 2018
Elevations Proposed	3579.PL.03 SIDE ELEVATIONS		28 February 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 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) Details 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.

- 4. The residential units hereby approved shall not be occupied until they have 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 SU2 of the Brighton & Hove Local Plan and policy CP8 of the Brighton & Hove City Plan Part One.

- 5. The residential units hereby approved shall not be occupied until they have 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 SU2 of the Brighton & Hove Local Plan and policy CP8 of the Brighton & Hove City Plan Part One.

- 6. The development hereby approved shall not be occupied until refuse and recycling storage facilities have been installed in the location illustrated on plan 3579.PL.01A received on the 28 Feb 2018, 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.

- 7. The new/extended crossover, accesses and parking areas shall be constructed prior to the first occupation of the development hereby permitted.

**Reason:** In the interests of highway safety and to comply with policy TR7 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12 and CP13 of the Brighton & Hove City Plan Part One.

- 8. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.

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

- 9. 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.

10. The hard surface tot the car parking area and landscaped areas 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 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 advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)).
3. The planning permission granted includes vehicle crossovers which require alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Highway Authority. The applicant must contact the Council's Streetworks Team ([permit.admin@brighton-hove.gov.uk](mailto:permit.admin@brighton-hove.gov.uk) or 01273290729) for further information at their earliest convenience to avoid any delay and prior to any works commencing on the adopted (public) highway.

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site is located on the corner of Cliff Approach and Cliff Road. The site is occupied by a detached two-storey dwelling which is set back from its boundary with Cliff Approach.
- 2.2 The area is residential in character and has a mix of property types and styles. The buildings in the area are predominantly finished in either brick or render and have brown clay tiles although the houses opposite the site in Cliff Road have

slate tiles. A new development of houses has been completed on the corner of Cliff Approach and The Cliff which have red brick walls and zinc roofs.

- 2.3 The application proposes the demolition of the existing dwellinghouse and redevelopment of the site to provide a 4 storey flat roofed building which includes a new basement level. It will accommodate 4 self-contained units with 2No. three-bed duplex units each occupying half of the lower ground and ground floors and 2No. two-bed duplex units each occupying half of the first and second floors.
- 2.4 It is proposed to provide 4 No. on-site car parking spaces at the rear of the site (one of which will be allocated as a space for disabled drivers) together with cycle storage and a refuse and recycling area.
- 2.5 The proposed building itself will measure approximately 12m wide x 12.8m deep x 10.9m to its maximum height (from the excavated lower ground floor level). The previous scheme measured 11.7m to its maximum height (from the excavated lower ground floor level).
- 2.6 As the pavement slopes down from east to west, the building would measure approximately 10.1m from the pavement level at the most eastern corner and 10.9m at the western corner.
- 2.7 The top floor is to be set back from the front elevation by approximately 3m to allow for a front facing terrace area and is set in from each side elevation by 0.7m and from the rear by 0.5m.

### **3. RELEVANT HISTORY**

- 3.1 BH2016/01675 - Demolition of existing single dwelling and erection of 2no two bedroom flats & 2no three bedroom flats. Refused
- 3.2 Reasons for refusal;
  1. The development represents an overdevelopment of the site which by virtue of its sunken lower ground floor and 4-storey bulk fails to respect the spacious character and appearance of the area and will not contribute positively to the local sense of place. Accordingly, the proposal is considered to be contrary to Policy CP14 of the Brighton & Hove City Plan.
  2. The lack of sufficient amenity space, particularly for the 2 bedroom units, is considered to be out of keeping with, and harmful to, the more spacious character of the area. In addition, the amount and type of amenity space that is provided is a further indication of the overdevelopment of the site. Accordingly, the proposal is considered to be contrary to Policies QD27 and H05 of the Brighton & Hove Local Plan.
- 3.3 BH2013/02398 - Demolition of existing residential dwelling and erection of 2no. two bedroom semi-detached residential dwellings. Approved 27/09/2013.

- 3.4 BH2011/02251 - Demolition of existing four bedroom house and erection of 6no self-contained apartments comprising of 2no three bedroom at 1st and 2nd floors and 4no two bedroom apartments at lower and upper ground floors with associated communal garden, car parking, refuse and cycle storage. Refused 07/12/2011. Appeal dismissed 21/08/2012.
- 3.5 BH2010/01893 - Demolition of existing 1No. 4 bedroom house and erection of 6 No. Self-Contained apartments comprising of 2 No. Duplex 3 bedroom at 1st and 2nd floors and 4 No. 2 bedroom apartments at lower and upper ground floors with associated communal garden, car parking, refuse and cycle storage. Refused 02/09/2010.
- 3.6 BH2008/03090 - Demolition of existing detached house. Erection of apartment building comprising 7 no. self-contained flats, with provision for communal garden, cycle parking and car parking facilities (Resubmission of BH2007/03867). Appeal dismissed 12/10/2009.
- 3.7 BH2007/03867 - Demolition of existing detached house. Construction of a four storey building comprising 7 residential apartments (1 one bedroom; 5 two bedroom; and 1 three bedroom units). Provision of 7 on-site parking spaces. Refused 13/03/2008.

#### **4. REPRESENTATIONS**

4.1 Thirteen (13) letters have been received from 10 different individuals, objecting to the proposed development for the following reasons:

- The corner plot is not large enough
- Parking is already bad and flats would mean more cars from prospective owners
- The road is an 'Approach" and cannot cope with the volume of housing.
- Removal of Garage at no. 6 extends into the neighbours garden. The party wall is 2ft from the neighbours' side door.
- Disruption, noise and stress of another development
- The flats would be out of character with the area. Houses are preferred to flats.
- There are protected Robins nesting in the ivy covering the garage
- There will be extra noise and activity from additional residents
- Loss of privacy and overlooking to adjoining properties
- The design is out of keeping with the character of the area
- It will over dominate the plot and the streetview
- Overshadowing of neighbouring properties
- Increased traffic
- Different building line to the rest of the street
- The existing property is big enough for a family of 6 so it doesn't need to be developed
- Limited amenity space for occupants

- 4.2 The Roedean Residents Association has also objected to the proposed scheme for the following reasons:
- Overcrowded parking
  - Numerous cars owned by non-residents park on the verges to commute into Brighton.
  - The proposal would add up to 10 new cars to the area with only off road parking for three cars (possibly 2 due to the layout).
  - The applicant should rework their application with more consideration for their neighbours and the wider community.

## 5. CONSULTATIONS

### 5.1 Brighton and Hove Archaeological Society: Comment

The above application lies within an area of intense archaeological sensitivity. Among the finds from Roedean are burials dating from the Neolithic and Early Bronze Age periods, and the location of a Roman coffin burial. In October 2003 the Brighton and Hove Archaeological Society excavated an Early Bronze Age burial, close by, on the East Brighton golf course.

- 5.2 Other recent discoveries include Roman coins and pottery found in the gardens of a house in Roedean Crescent, and a large underground chamber, hitherto unknown, possibly associated with Royal Navy activities during the Second World War.

- 5.3 The Brighton and Hove Archaeological Society would suggest that you contact the County Archaeologist for his recommendations

### 5.4 County Archaeology: No objection

This application is situated within an Archaeological Notification Area. However, given the significant modern impacts on the site, based on the information supplied it is not believed that any significant below ground archaeological remains are likely to be affected by these proposals.

### 5.5 Sustainable Transport: No objection

Pedestrian access is proposed to be from the south, east and north east of the site. The Highway Authority has no objections to the proposed arrangement.

- 5.6 The proposed vehicle access is to be via the existing crossover to the north east but this will be widened to provide access for 4 off street parking spaces. No objections are raised in principle; however, the applicant should be aware that they will require a vehicle crossover licence which will need to comply with Brighton & Hove City Council's Driveways and Dropped Kerbs guidance.

- 5.7 A total of 4 car parking spaces have been outlined in the proposed development. Average car ownership for the ward is 1.2 per household, which would mean that for 4 units there is likely to be some additional car parking demand above the capacity provided (approximately 1 space). The parking layout is also constrained meaning the capacity may be less in practice; however, it is not expected that overspill parking will be significant or amount to

a severe impact on the highway. Therefore, in this instance, it is not considered that refusal would be warranted on these grounds under the National Planning Policy Framework.

- 5.8 Based on the plans, provisions have been made for 10 cycle parking spaces. This would comply with the minimum of 6 spaces required by SPD14; however, full details have not been provided. In order to comply with Brighton & Hove Local Plan policy TR14, cycle parking should be secure, convenient and, wherever possible, covered. The Highway Authority's preference is for the use of Sheffield type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22; however, individual cycle lockers (as appear to be shown) may be acceptable where cycle parking is not communal. It is recommended that this is secured by condition.
- 5.9 The applicant has interrogated the industry standard TRieS database to forecast the likely trips associated with the development at approximately 37 per day or approximately 30 more than the existing development. By using sites within the 'Houses Privately Owned' category as opposed to flats, it is expected that the trip rate is more likely to have been overestimated. It is not considered that the proposed development would amount to a significant impact upon the highway in this instance and therefore the Highway Authority has no objections.

## **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
- CP8 Sustainable buildings
- CP9 Sustainable transport

CP12 Urban design  
CP14 Housing density  
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  
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  
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 key considerations are the principle of the development, impact on street scene and wider area, amenity issues, transport issues and sustainability.

**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 14).



- 8.4 The site is located within the built up area of the City on a site currently used for residential purposes and has previously been granted permission for redevelopment to form two new houses. The surrounding area is residential in character and therefore in principle there is no objection to a residential use being retained on site.
- 8.5 The previous appeal decision for six flats (BH2011/02251) noted that there was no objection in principle to the redevelopment of the site and that there was "an opportunity to provide a building that would make a more positive contribution to the character and quality of the area."
- 8.6 Neighbours have expressed concern that the scheme is for flats and that the area is characterised by houses. However, City Plan policy CP14 makes it clear that an increase in density can be acceptable in principle providing it is of a sufficiently high design and respects the character of the area.
- 8.7 **Design and Appearance:**  
One of the key reasons for refusing the 2011 application for flats (BH2011/02251) was its impact upon the character and appearance of the area. It was also a key issue in the previous, 2009 appeal decision.
- 8.8 Both appeal Inspectors acknowledged that the existing building offered little architectural or townscape merit and the Inspector when determining the appeal for BH2011/02251 noted that redevelopment of the site offered an opportunity to provide a contemporary landmark building. However, she noted from the previous 2009 appeal decision, redevelopment of the site in this way did not necessarily require a large structure and subsequent schemes have consequently not tried to replicate the scale of that refusal.
- 8.9 The current scheme offers a contemporary approach with significant areas of glazing to the front (south) and rear (north) elevations. It is a relatively simple design and is less bulky than previously dismissed schemes.
- 8.10 The principle elevations are the front (south) and rear (north) elevations and contain the main areas of glazing. The building has been laid out internally so that the main living areas are to the front of the building and the bedrooms to the rear. The east elevation, which fronts on to Cliff Approach provides the main entrance for one of the 3-bed units and the first floor has a projecting window which serves a proposed bathroom. These openings are off-set from one another and the appearance of the elevation as a whole is a function of the internal layout rather than having been designed to address Cliff Approach.
- 8.11 The footprint, siting and style of the proposed building is very similar to that approved under planning permission BH2013/02398 for the development of a pair of semi-detached dwellings. Therefore, although there are some slight revisions to the design in order to accommodate the number of proposed units, it is considered that given the broad similarities between the current permission and the previous permission, these are not aspects on which a refusal can be based.

- 8.12 In terms of the overall height of the building it is noted that the 2011 proposal was a smaller scheme than its 2008 predecessor and whilst the Inspector noted that its height was above that of No.2 Cliff Road, it would be in line with the increase in roof heights stepping up Cliff Road. The current application is approximately 0.7m lower in its maximum height than this second (BH2011/02251) appeal proposal.
- 8.13 Accordingly, the size, footprint and height of the building is considered acceptable.
- 8.14 The key determining factor in the BH2011/02251 appeal was that the building conveyed the impression of a 4 storey building set at a lower level than the adjoining houses and by introducing a lightwell at the front of the building to serve the lower ground floor accommodation, introduced a somewhat alien feature into the street scene.
- 8.15 This current scheme has attempted to address these issues by reducing the level of excavation for the lower ground floor and amending the fenestration.
- 8.16 The proposed scheme would require a maximum of 1m of excavation from the pavement level. The level of excavation required would decrease in-line with the natural land level. This is approximately 0.65m less than the BH2011/02251 scheme.
- 8.17 The fenestration on the front elevation serving the bedrooms on the lower ground has been moved to the side elevations so that the building has the appearance of a three storey building when viewed from Cliff Road.
- 8.18 The proposed scheme is considered to have satisfactorily overcome the design concerns raised by the previous schemes.
- 8.19 **Standard of Accommodation:**  
Policy QD27 of the Brighton and Hove Local Plan aims to secure a good standard of living accommodation for current and future occupiers in all new developments. Accommodation should therefore provide suitable circulation space within the communal spaces and bedrooms once the standard furniture has been installed, as well as good access to natural light and air in each habitable room.
- 8.20 The 'Nationally Described Space Standards' were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. Although these space standards have not been formally adopted into the Brighton and Hove City Plan, they provide a useful guideline on acceptable room sizes. The 'Nationally Described Space Standards' establishes the minimum floor space for a single bedroom as measuring at least 7.5m<sup>2</sup>, and a double bedroom should measure at least 11.5m<sup>2</sup>. A two bedroom two storey dwelling for 3 occupants should have a minimum internal floor space of 70m<sup>2</sup>, a three bedroom two storey dwelling for 6 occupants should have and internal floor space of 93m<sup>2</sup>.

- 8.21 The three bedroom apartments provide two double bedrooms and one single bedroom, which all meet the minimum space requirements. The overall internal floor space measures 118.8m<sup>2</sup>, thereby exceeding the minimum space standards.
- 8.22 The two bedroom apartments provide one double and one single bedroom which both meet the minimum space requirements. The overall internal floor space measures 86m<sup>2</sup> and thereby exceeds the minimum space standards.
- 8.23 Overall, the proposed scheme is considered to provide future occupants with a good standard of living accommodation in accordance with policy QD27 of the Brighton & Hove Local Plan.
- 8.24 **Amenity Space:**  
The 2008 application was in part rejected due to the level of communal amenity space proposed which was considered to be inappropriate given the size and nature of the development. The subsequent 2011 scheme was amended so that the two larger, 3-bed units would have private balconies and terraces and the four smaller 2-bed units would have front and rear terraces.
- 8.25 A communal garden to the rear was also to be provided. Whilst the second Inspector did not consider the level of amenity space to be so unacceptable in terms of its size to warrant dismissal of the appeal on its own, it did add to the concerns about the scale and character of the development.
- 8.26 Whilst the adequacy of amenity space was a reoccurring concern for the appeal Inspectors, the approval for two houses was considered to provide useable private amenity space that was not considered be out of character with the area. While the gardens would have been quite narrow, they were considered to provide a useable area for amenity purposes. The footprint of this currently proposed scheme remains the same as the permission for two houses, although the use of the garden space is more intense.
- 8.27 Both the previous Inspectors noted that the Council does not have specific space standards but accepted that the site is in a suburban location where space standards are characteristically more generous than other, more central locations. The second Inspector also noted that two bedroom units could be occupied by families and this was a factor in the refusal of the more recent 2016 scheme which provided only a roof terrace for the 2- bed units and as such, the scale and nature of development was not considered to provide a level of amenity space commensurate with the nature of the development proposed.
- 8.28 The Brighton & Hove City Plan policy CP14 encourages a greater use of land to increase density levels but Local Plan policy H05 remains in force and was directly referenced in the previous appeal. However, Policy CP14 is clear that whilst development will be permitted at higher densities than those typically found in the locality it must be able to demonstrate that it would respect, reinforce or repair the character of the neighbourhood and contribute positively to its sense of place.

- 8.29 The level of amenity space for each unit has been addressed in this amended scheme. Unit A (3 bedroom unit) will have a private garden to the rear. Unit B (3 bedroom unit) will have a private garden area to the side and rear. The two bedroom units will each have a private roof terrace and a small courtyard/terrace at the front of the building at lower ground floor level. The windows at the lower ground floor level have been moved to the side elevations to ensure that there is no loss of privacy and minimise noise disturbance.
- 8.30 The private amenity space for each dwelling is considered limited, but also private and usable. As such, the benefits of providing four dwellings are considered to outweigh the harm of the smaller amenity space.
- 8.31 **Impact on Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.32 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.
- 8.33 The 2008 proposal was rejected in part due to its impact upon the amenity of neighbouring properties. In particular, that Inspector noted that the perception of overlooking from the proposed side windows and higher level windows at the rear would harm the living conditions of the occupiers of No.2 Cliff Road.
- 8.34 The 2011 submission omitted the side windows and was laid out internally so that each of the four bedrooms on the rear elevation at first floor level had a single floor-to-ceiling height window. The issue of loss of amenity was not raised at the subsequent appeal.
- 8.35 The current scheme has the same depth as the permission for two houses on the site. The fenestration pattern proposed on the rear elevation is not dissimilar to that of the permission for the two houses. However, approximately two-thirds of the first floor will be served by floor-to-ceiling windows serving bedrooms.
- 8.36 The second floor windows although much the same size as previously approved, now serve kitchen areas rather than en-suite bathrooms.
- 8.37 Overall, it is considered that there may be a slight increase in the level and perception of overlooking compared with the previous permission.
- 8.38 It is noted that windows to the side elevation of No. 2 Cliff Road facing the development site are obscurely glazed and therefore the effect of the proposed development will be limited. The property to the rear of the application site, No.

4 Cliff Approach, has only one first floor window that would face the application site, and the windows to the ground floor are obscured by a high brick wall.

8.39 It is therefore considered that although there will be some increase in overlooking, it will not be to an extent that would warrant the refusal of this application.

8.40 **Sustainable Transport:**

Pedestrian access is proposed to be from the south, east and north east of the site. The Highway Authority has no objections to the proposed arrangement.

8.41 The proposed vehicle access is to be via the existing crossover to the north east which will need to be widened to provide access for 4 off street parking spaces.

8.42 A total of 4 car parking spaces have been outlined in the proposed development. Average car ownership for the ward is 1.2 per household, which would mean that for 4 units there is likely to be some additional car parking demand above the capacity provided (approximately 1 space). The parking layout is also constrained meaning the capacity may be less in practice; however, it is not expected that overspill parking will be significant or amount to a severe impact on the highway. Therefore, in this instance, it is not considered that refusal would be warranted on these grounds under the National Planning Policy Framework.

8.43 Based on the plans, provisions have been made for 10 cycle parking spaces which would exceed with the minimum of 6 spaces required by SPD14. However, full details have not been provided and this will be secured by condition.

8.44 It is not considered that the proposed development would amount to a significant impact upon the highway in this instance and therefore the Highway Authority has no objections.

8.45 **Sustainability:**

Policy CP8 of the Brighton and 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. These measures will be secured via a suitably worded condition.

**9. EQUALITIES**

9.1 None identified.



# **ITEM D**

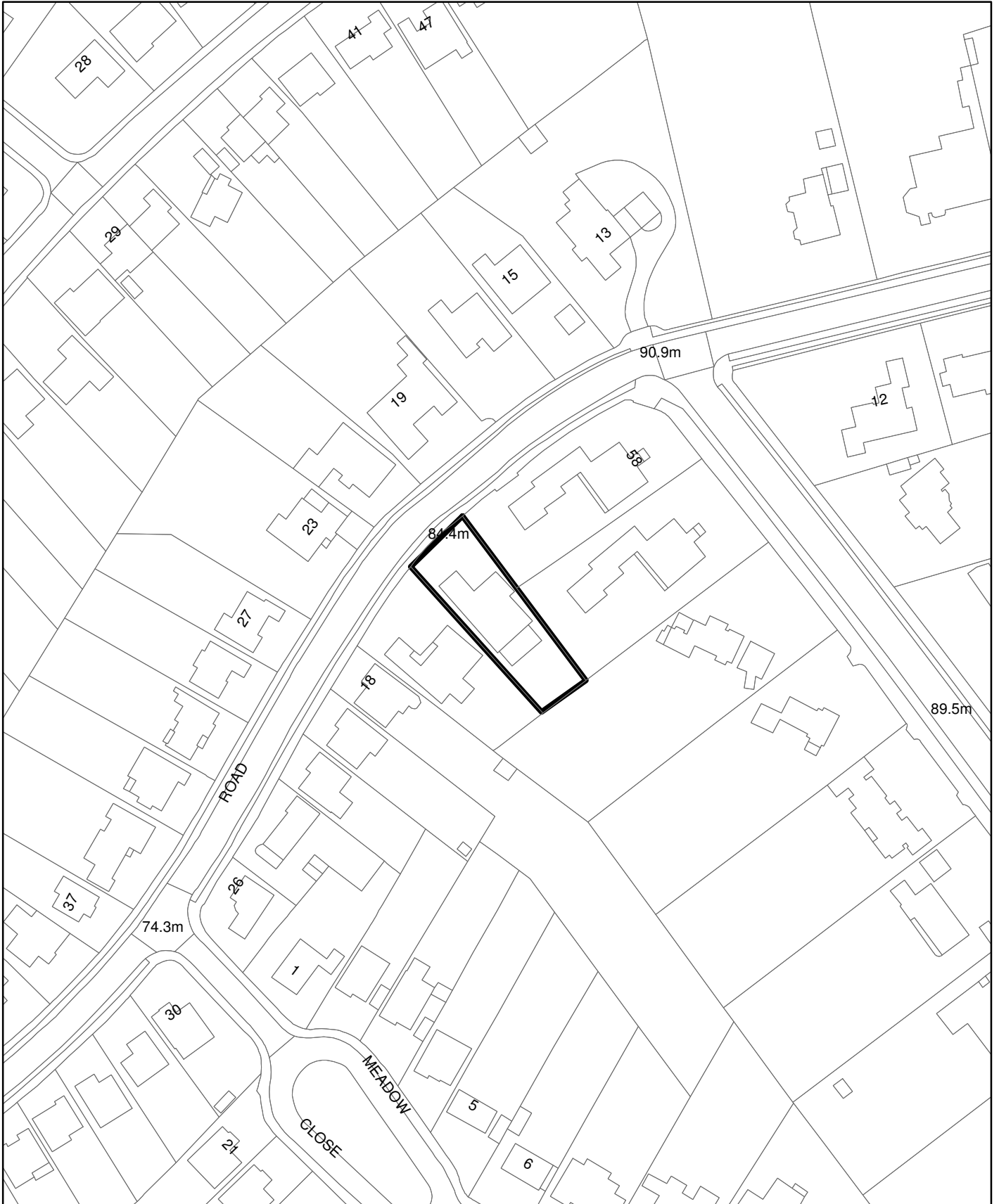
**14 Tongdean Road,  
Hove  
BH2018/04220  
Full Planning**

**DATE OF COMMITTEE: 12<sup>th</sup> September 2018**





# 14 Tongdean Road Hove



N



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2017/04220</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>14 Tongdean Road Hove</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing bungalow and erection of new building comprising of three 2no bedroom flats and one 3no bedroom maisonette.</b>		
<b><u>Officer:</u></b>	Luke Austin, tel: 294495	<b><u>Valid Date:</u></b>	02.01.2018
<b><u>Con Area:</u></b>	Tongdean	<b><u>Expiry Date:</u></b>	27.02.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Yelo Architects Ltd First Floor Olivier House 18 Marine Parade Brighton BN2 1TL		
<b><u>Applicant:</u></b>	Mr Sean Maguire 14 Tongdean Road Hove BN3 6QE		

Councillor Brown has requested this application be 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 **Minded to GRANT** planning permission subject to the expiry of the re-consultation period expiring on the 04 September 2018 and no new planning considerations arising 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	0001	REV A	27 June 2018
Site Layout Plan	1000	REV A	27 June 2018
Floor Plans Proposed	1200	REV A	27 June 2018
Floor Plans Proposed	1201	REV A	27 June 2018
Roof Plan Proposed	1203	REV A	27 June 2018
Elevations Proposed	2000	REV A	27 June 2018
Elevations Proposed	2001	REV A	27 June 2018
Elevations Proposed	2002	REV A	27 June 2018
Sections Proposed	3000	REV A	27 June 2018
Sections Proposed	3001	REV A	27 June 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 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 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) details of all hard surfacing materials
  - d) details of the proposed windows and doorsDevelopment 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 of the Brighton & Hove City Plan Part One.
4. Prior to first occupation of the development hereby permitted, pedestrian crossing improvements (dropped kerbs with paving and tactile paving) shall have been installed at the junction of and across Meadow Close with Tongdean Road and Tongdean Avenue with Tongdean Road.  
**Reason:** To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7, TR11 and TR12 of the Brighton & Hove Local Plan & CP9 of the Brighton & Hove City Plan Part One.
5. The new/extended crossovers and accesses shall be constructed prior to the first occupation of the development hereby permitted.  
**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and SA6, CP7, CP9, CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One.
6. The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.  
**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.
7. 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.

8. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One.
9. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton & Hove City Plan Part One.
10. None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the Brighton & Hove City Plan Part One.
11. 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.
12. The development hereby permitted shall not be occupied until the 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.
13. No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Tree Protection Plan and a Construction Specification/Method Statement for 14 Tongdean Road, Hove (to include adjacent trees in neighbouring gardens) has been submitted to and approved in writing by the Local Planning Authority. This shall provide for the long-term retention and protection of all of the trees adjacent to this site. No development or other operations shall take place except in complete accordance with the approved Tree Protection Plan and Construction Specification / Method Statement.

**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 and SPD06:Trees and Development Sites.

14. Before any equipment, materials or machinery are brought onto the site for the purposes of development, a pre-commencement site meeting between the Tree Officer, Arboricultural Consultant and Site Manager shall take place to confirm the protection of trees on or adjacent to the site in accordance with an approved Arboricultural report. The tree protection shall be positioned as shown on the agreed Tree Protection Plan, before any equipment, materials or machinery are brought onto the site for the purposes of the development. The tree protection shall be retained until the development is completed and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the written consent of the Local Planning Authority. This condition shall not be discharged until an arboricultural supervision statement, the contents of which are to be discussed and agreed at the pre-commencement meeting, is submitted to and approved in writing by the Local Planning Authority on completion of development.

Notwithstanding details already submitted, full plans and particulars showing the final Siting of the services and soakaways shall be submitted to the Local Planning Authority for written approval prior to commencement of works on site.

**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 and SPD06:Trees and Development Sites.

15. No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by condition has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:
  - a. Induction and personnel awareness of arboricultural matters
  - b. Identification of individual responsibilities and key personnel
  - c. Timing and methods of site visiting and record keeping, including updates
  - d. Procedures for dealing with variations and incidents.
  - e. The scheme of supervision shall be carried out as agreed.
  - f. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on

this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. The planning permission granted includes an obligation upon the applicant to carry out small scale footway improvements on the adopted (public) highway that is owned by the Highway Authority (in this case Brighton & Hove City Council). Previously the applicant would have been conditioned to enter into a bespoke legal agreement and pay a contribution towards these works being carried out for the benefit of the development but to amongst other reasons reduce the costs of these works for all parties concerned the council is now obligating the applicant to carry out these works. The applicant or their representative is advised to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 290729) who will provide information and if approved, a licence (instead of a bespoke legal agreement) for what, when & where work can be done, who will be permitted to carry out the works, possible contractor contact details to place orders with, design advice, material advice and will check that the footway improvements are built satisfactorily. The emphasis where possible is on minimising what needs to be done to build a satisfactory footway improvement for the benefit of the applicant, future occupants and visitors of the site and the community as a whole, and in particular the mobility and visually impaired of those respective groups. Finally be advised that the applicant or their representative must obtain all necessary highway approval from the Highway Authority prior to any works commencing on the adopted (public) highway to satisfy the law and requirements of condition 4.
3. The planning permission granted includes vehicle crossovers which require alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required to be constructed under licence from the Highway Authority. The applicant must contact the Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) at their earliest convenience to avoid any delay and prior to any works commencing on the adopted (public) highway.
4. The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens' which can be accessed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)).
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 required under condition 7 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

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site relates to a single storey property located to the east of Tongdean Road within the Tongdean Conservation Area. The property has a hipped roof with a projecting garage to the front elevation. The property has been extended at the rear with a full width single storey extension. The site is set within a group of properties of varied design and form.
- 2.2 Permission is sought for the demolition of the existing bungalow and the construction of a new replacement building comprising four flats.

## 3. RELEVANT HISTORY

- 3.1 **BH2017/00445:** Demolition of existing dwelling & erection of 1no three storey, 5 bedroom detached house with basement (C3). Refused April 2017 for the following reasons:

1. *The proposed dwelling, by virtue of its siting, design, height and bulk, would result in a form of development which would fail to emphasise and enhance the positive qualities and characteristics of the Tongdean conservation area, and would appear out of scale, bulky and overly dominant in relation to its neighbours, and relate poorly to the rest of the street and surrounding Conservation Area in which the site is located. The proposed development is thereby contrary to policies CP12 and CP15 of the Brighton and Hove City Plan Part One and HE6 of the Brighton and Hove Local Plan.*

2. *The proposed second floor terrace areas, due to their size and elevated position, in close proximity to the adjacent properties, would be an unneighbourly form of development leading to overlooking of neighbouring properties and gardens, causing significant harm to the privacy of neighbouring residents.. The proposal would therefore lead to a loss of amenity and is contrary to policies QD14 and QD27 of the Brighton and Hove Local Plan.*

- 3.2 **BH2015/03809:** Demolition of existing dwelling and erection of 1no three storey, 5 bedroom detached house with basement (C3). Refused March 2016. Dismissed at appeal July 2016.



#### 4. REPRESENTATIONS

4.1 Eighteen **(18)** letters have been received, objecting to the proposed development for the following reasons:

- Flats are not appropriate for the area
- Appearance of the building is not in keeping
- Overlooking / loss of privacy
- Increased noise disturbance
- Increased traffic and pedestrian risk
- Add to existing parking pressure
- Contrary to the Tongdean Road Character Statement
- Will not respect building line
- Overbearing
- Dominant within the streetscene
- Overdevelopment
- Would create a precedent
- Property is on a blind bend
- Inappropriate appearance
- Three stories is inappropriate

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

4.3 Following a re-consultation, a further **two (2)** letters have been received, objecting to the proposed development for the following reasons:

- Contrary to the Tongdean Road Character Statement
- Overdevelopment
- Significant intensification
- It will damage the plot
- It will set a precedent
- There are apartments next door
- Will add to parking pressures
- The area is predominantly families

#### 5. CONSULTATIONS

5.1 **Heritage:** Initial Comment - 16/01/18

The following amendments / mitigation are recommended.

- Remove the protruding bricks and replace with Flemish bond brickwork as outlined above.
- Provide details of the entrance canopy (not shown on ground floor plan or elevations).
- Identify the material below the trapezoid window. This should be brickwork.
- Increase the front setback to be in line with the northernmost gable of the neighbouring dwelling at number 16 Tongdean Road.

5.2 Second Comment - 19/07/18

The concerns of the Heritage Team regarding the proposed brickwork have not been addressed in the revised drawings. It is still a matter of concern that the texture and colour of the feature brickwork is alien to this conservation area and the Heritage Team is not able to support this proposed detailing.

5.3 The amended proposed site plan YO163 1000 cannot be directly compared with the proposed site plan previously submitted (YO163 0010) which is unhelpful. It would appear that only a fractional adjustment has been made, however if it can be confirmed that the revised position is in line with the northernmost gable of no 16 as requested the proposed position of the new building is acceptable.

5.4 **Arboriculture:** No objection  
No objection subject to conditions securing tree retention / protection method statement and supervision during construction.

5.5 **Sustainable Transport:** No objection  
No objection subject to conditions securing highway improvements, crossover implementation, porous hard surfaces, cycle parking and retention of the parking area by condition.

## 6. MATERIAL CONSIDERATIONS

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

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, 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
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport

CP10 Biodiversity  
CP11 Flood risk  
CP12 Urban design  
CP14 Housing density  
CP15 Heritage  
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  
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  
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD06 Trees & Development Sites  
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 relate to the principle of residential development on site, the effect of the proposed building on the design and character of the streetscene and conservation officer, the standard of accommodation for future occupiers, the impact on neighbouring amenity, the sustainable transport implications in addition to the sustainability of the proposed building.

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

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).

- 8.3 The existing site forms a single detached residential property. The proposed development would result in an intensification of the use of the site by providing an additional three residential units. Although the site is in an area comprising predominantly single dwellings on larger plots, there is a general need for housing within the City and both the Brighton & Hove City Plan Part One and Local Plan acknowledge the need to make the best use of the limited amount of land that is available. Furthermore the adjacent property, formally known as 16 Tongdean Road (now 16 and 16A Tongdean Road) was granted permission to demolish the existing building and construct two apartments in 2011 (ref. BH2011/01954).
- 8.4 On this basis, as a principle of development, additional residential development on the site would be appropriate, however the specific impacts must however be considered as to whether the development is appropriate and whether harm would be caused. This detailed assessment is set out below.
- 8.5 **Design and Appearance:**  
This property is in the Tongdean Conservation Area. The Area is characterised by substantial detached dwellings on generous plots in a variety of architectural styles, however there are notable common architectural features such as prominent pitched roofs, chimneys and gables and substantial boundary walls help to give the area visual continuity.
- 8.6 The character statement for the area states:  
Any impression of uncoordinated development is avoided because of the generous spacing of the buildings in relation to each other and the unifying effect of the trees and greenery. The element of surprise resulting from seeing one architectural style after another is part of the character of Tongdean Avenue/Road.
- 8.7 The proposal follows two previous refused applications (BH2015/03809 and BH2017/00445) to redevelop the site in to a substantial larger single dwelling, the former of which was dismissed at appeal (APP/Q1445/W/16/3148325). At appeal the Inspector's Report noted that;
- 8.8 *'The consistency of the roofscape of the area is similarly an important harmonising feature of the area, with properties typically featuring relatively steeply pitched roofs and gable ends facing carriageways. Flat roofs are atypical. Properties tend to feature materials which are commensurate with the era in which they were constructed: brick, tile and half timbering. They also appeared to me to be characterised by an eclectic mix of design details including asymmetric front elevations, varying fenestration detailing within properties, and different external materials within individual elevations'.*
- 8.9 The Inspectors report concluded that;
- 8.10 *'Whilst the proposal would appear modernist in design in line with its immediate neighbours, unlike them it would not clearly reference any features of the surrounding vernacular in terms of roof form, detailing or materials. I appreciate*

*that the design concept is for a minimal modern property. However in this particular context its scale and extensively glazed symmetrical principal elevation would result in a stark appearance which would be markedly out of character with its surroundings'.*

- 8.11 The proposal seeks consent for the demolition of the single storey existing dwelling and replacement with a three storey building containing three flats and one maisonette. The proposal will have a clay tile roof with aluminium windows and red brick walls with areas of protruding red and grey brick headers, adding texture to the building.
- 8.12 The scale, materials and boundary treatment of the existing property are not typical of the conservation area and are not elements that are identified in the Tongdean Conservation Area Character Statement as positive characteristics, therefore in heritage terms the principle of demolition is acceptable, subject to a suitable replacement building.
- 8.13 The conservation area is typified by large pitched roofs with clay tile cladding. The form of the proposal, being one large gable (facing the street) and a smaller off-set gable is more in keeping with the conservation area than previous proposals. The proposed cladding for the roof is clay tiles which are in keeping with the prevalent materials within the area.
- 8.14 Following amendments including the increase of the set-back from the road and clarification surrounding the details of the entrance canopy, the proposed development is considered to have overcome the previous reasons for refusal and Inspector's concerns in relation to design and is therefore considered acceptable in terms of design.
- 8.15 Full details of materials and finishes can be secured by condition.
- 8.16 Landscaping:  
The proposed development would include a lawn within the rear garden in addition to a small area of lawn to the front garden and an area of hardstanding in order to provide vehicular access and parking. A terraced area would also be provided to the rear at lower ground floor level.
- 8.17 Full details of landscaping and boundary treatments shall be secured by condition.
- 8.18 **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.
- 8.19 The extra bulk of the proposed development sited close to the shared boundaries would be visible to neighbouring properties. Nevertheless the proposed relationship between the properties would not be particularly unusual

in terms of siting and the separation distance between the properties is relatively comfortable. Therefore the additional impact is not considered to be unacceptably imposing or enclosing. In terms of loss of light, again, bearing in mind the distance between the properties and the open nature of the sites, it is considered that any impact would be minimal and not warrant refusal of the application.

- 8.20 The proposed fenestration has a mainly front/ rear aspect, thereby looking out over the street and the rear gardens of adjacent properties; some mutual overlooking is not an uncommon feature. There are a number of side windows at first floor level. To the south-western side elevation a window would serve a bedroom. Although this window would face towards 16 Tongdean Road adjacent, it would be parallel to the flank wall which only contains obscure glazed windows serving bathrooms.
- 8.21 The proposal also includes first floor windows to the north-eastern side elevation which would provide views towards the rear gardens of nos. 56 and 58 Tongdean Avenue. The windows would however be located approximately 30m from the rear elevations of the adjacent properties which is considered an acceptable level of separation within a residential context.
- 8.22 Whilst the terraces proposed to the application site will result in some level of overlooking to the rear garden allocated to the maisonette, a level of overlooking such as this is considered reasonable in a development of this type and is typical of flats across the city.
- 8.23 **Standard of Accommodation for Future Occupiers**  
All of the units would meet the minimum floor areas set out within the National Described Space Standards and would therefore provide an acceptable level of circulation space for the level of occupancy proposed. All of the units on the upper levels would receive adequate levels of light and outlook due to the substantial elevation to the rear elevations.
- 8.24 The lower ground floor level flat would have reduced outlook within the living areas in comparison to the upper levels. The outlook would be confined to glazed sliding doors facing into the external courtyard area. Each of the units proposed provides external amenity space either via a balcony or garden area. As such the proposed development is considered to be compliant with Policy HO5.
- 8.25 On balance therefore, given the ample circulation space and access to external amenity space, the proposal is considered to provide an acceptable standard of accommodation.
- 8.26 **Sustainable Transport:**  
SPD14 states that a minimum of 1 cycle parking space is required for every residential unit with up to 2 beds and 2 for 3 plus beds and 1 space per 3 units for visitors after 4 units. For this development of 4 residential units with 2 and 3 beds the minimum cycle parking standard is 5 cycle parking spaces in total (5 for residential units and 0 visitor spaces). The application proposes 2 cycle

stores for 6 cycle parking spaces within the proposed underground garage, however there is a lack of detail therefore cycle parking is requested by condition.

8.27 The level of cycle parking proposed is in accordance with the maximum standards within SPD14. There is not forecast to be a significant increase in vehicle trip generation as a result of these proposals therefore any impact on carriageways will be minimal and within their capacity so the application is deemed acceptable in this regard.

8.28 The sustainable transport team have requested pedestrian crossing improvements (dropped kerbs with paving and tactile paving) at the junction of and across Meadow Close with Tongdean Road and at the junction of and across Tongdean Avenue with Tongdean Road. This is to improve access to and from the site to the various land uses and local amenities for future occupiers and local residents. The requested works are considered reasonable and commensurate to the scale of development proposed and therefore shall be requested by condition.

8.29 **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. These standards shall be secured by condition.

8.30 **Conclusion:**

Whilst the proposed development would be modern in appearance and would include material finishes which are not common within the surrounding conservation area, the overall form and footprint of the building are considered acceptable. Furthermore the proposal would provide three additional residential units which is a welcome addition to the housing shortfall within the city. On balance therefore the proposed development is considered acceptable.

**9. EQUALITIES**

9.1 None identified





COUNCILLOR REPRESENTATION

Ref BH2017/04220 14 Tongdean Road Hove  
Councillor: Vanessa Brown

As a Councillor for Hove Park Ward I am writing to object to this application for a new building of 4 flats on the site of an existing bungalow.

This is situated in the Tongdean Conservation Area which is characterised by individual houses set in their own gardens. It is not the appropriate place to start building flats. It would set a very unwelcome precedent. It is an overdevelopment of the site and not in keeping with the street scene.

These flats and maisonette would cause overlooking and a loss of privacy to nearby homes particularly to 56 Tongdean Avenue.

There is only parking for 2 cars on site and yet with 4 families and 9 bedrooms there could be many more cars parking on the bend outside the property.

If the recommendation should be to allow this development I would like it to go before the Planning Committee for decision.



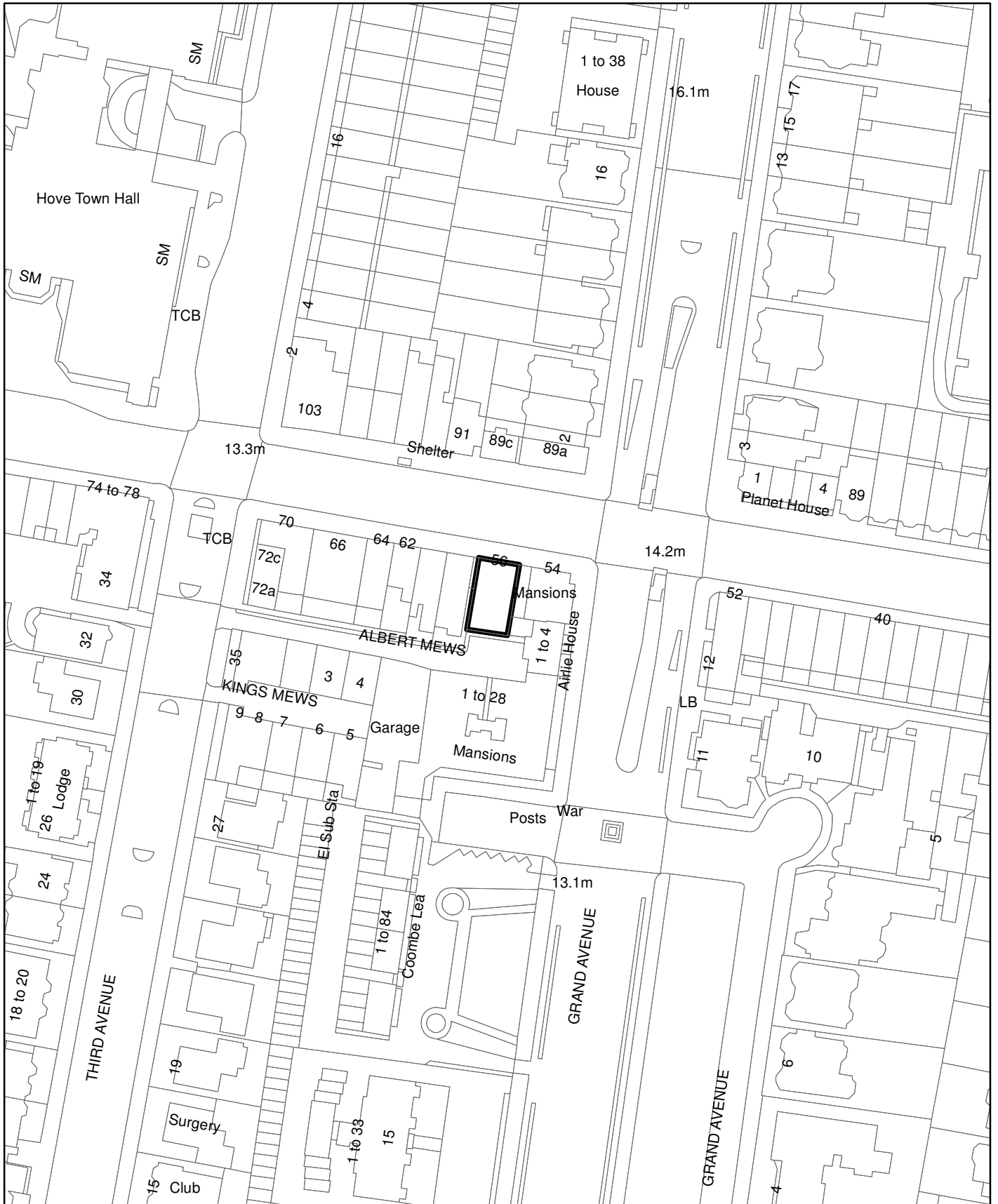
# **ITEM E**

**56 Church Road,  
Hove  
BH2018/00224  
Full Planning**

**DATE OF COMMITTEE: 12<sup>th</sup> September 2018**



# 56 Church Road Hove



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/00224</b>	<b><u>Ward:</u></b>	<b>Central Hove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>56 Church Road Hove BN3 2FP</b>		
<b><u>Proposal:</u></b>	<b>Change of use of basement from retail (A1) to fitness studio (D2).</b>		
<b><u>Officer:</u></b>	Joanne Doyle, tel: 292198	<b><u>Valid Date:</u></b>	23.01.2018
<b><u>Con Area:</u></b>	The Avenues	<b><u>Expiry Date:</u></b>	20.03.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Roger Fagg Architect Ltd 14C Fourth Avenue Hove BN3 2PH		
<b><u>Applicant:</u></b>	Barakat 2a Church Road Hove BN3 2FL		

## 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	17/405/OS	-	23 January 2018
Floor Plans Proposed	17/405/02A (BASEMENT)	-	23 January 2018
Floor Plans Proposed	17/405/03 (GROUND)	-	23 anuary 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 premises shall be used as a fitness studio (Use Class D2) (classes such as yoga, pilates and tai chi with no gym equipment installed on the premises as set out in paragraph 3.1 and 5.4 of the Planning Statement, received 23.01.2018) only and for no other purpose (including gymnasium or any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of

use shall occur without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy QD27 of the Brighton & Hove Local Plan.

4. The use hereby permitted, shall not be carried out except between the hours of 08:00 and 21:00 on Mondays to Fridays, 09:00 and 18:00 Saturdays and 10:00 and 16:00 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.

5. The windows and door to the rear elevation (basement) of the development hereby permitted shall be shut during classes when amplified music is played.

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

6. Amplified music or other entertainment noise from within the premises shall not be audible within any adjacent premises.

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

Informatives:

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

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

- 2.1 The application site relates to mid terrace commercial property currently in use as retail at ground floor and ancillary storage/workshop at basement level, located on the south side of Church Road. To the rear of the site lies Albert Mews which is accessed from a door at basement level. The property lies within The Avenues conservation area and forms part of the primary shopping frontage to the designated Hove Town Shopping Centre.

- 2.2 Planning permission is sought for the change of use from retail (A1) to fitness studio (D2) at basement level.

- 2.3 This application follows the previously refused prior approval application BH2017/03245 for the change of use of retail (A1) to gymnasium (D2) at basement level. The reasons for the refusal of this previous application are set



out below. This change of use application proposes a change to a fitness studio rather than gymnasium.

### 3. RELEVANT HISTORY

- 3.1 BH2017/03245- Prior approval for Change of Use from retail (A1) to gymnasium (D2) at basement level with associated internal alterations. Prior approval is required and refused 21.11.2017. The reasons for the refusal were as follows:
1. The building is on article 2(3) land and as such does not benefit from the rights set out in Schedule 2, Part 3, Class J. 1 (d) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  2. Notwithstanding Reason 1, it is considered that in accordance with Paragraph W(3)(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) insufficient information has been submitted to demonstrate that the gymnasium use would not result in amenity harm to adjacent occupiers with regard to noise nuisance. Accordingly, the application is refused.
- 3.2 52 Church Road  
BH2009/02988 - Change of Use of lower ground floor from A2 to medical/educational/classrooms (D1) and leisure facilities (D2). Approved 22.02.2010.

### 4. REPRESENTATIONS

- 4.1 Five (5) letters of representation have been received objecting to the proposal for the following reasons:
- Security issues to Albert Mansions
  - Noise and disturbance
  - Parking issues
  - Additional opening hours
  - Unsociable hours
  - Better suited to offices
  - Could to another use within D2 class
  - Noise from vibrations of class
  - Rights of way dispute
  - Access to Albert Mews would result in overdevelopment
  - Access should be from Church Road
  - Affect the viability of the ground floor retail unit and storage and waste removal
- 4.2 **Councillor Wealls** has **objected** to the planning application, a copy of the letter is attached to this report.

### 5. CONSULTATIONS

- 5.1 **Sussex Police:** No objection

No.56 Church Road is a 5-storey mixed-use building which fronts on to Church Road, Hove. The ground floor shop is occupied by Bang & Olufsen (music equipment specialists). The upper floors (54-56 Church Road) are in residential use (Albert Mansions). The proposed fitness studio would be located in the basement and would be separate from the ground floor shop and accessed from the rear via Albert Mews.

In order to assist in creating a safe and secure environment at the location, I direct the applicant or their agent to our website at [www.securedbydesign.com](http://www.securedbydesign.com) where the Secured by Design (SBD) Commercial Development 2015 document can be found. This is a comprehensive document that encapsulates both commercial developments where the public have no formal access, e.g. factory or office buildings, and those where public access is integral to the commercial use such as retail premises, leisure centres and public buildings. This document will be able to provide the applicant with indepth advice pertinent to the design and layout. Accredited products that are fit for purpose and appropriate along with natural surveillance, lighting and access control will assist the development in creating a safe and secure environment in which partake in leisure and retail activities.

I ask the applicant or their agent to check to ensure any existing doors along with any easily accessible windows that are being retained, are checked to ensure they adequate and fit for purpose, with locks that conform to BS 3621 / 8621 respectively. Any new doors or windows are to conform to the recommendations within SBD Commercial 2015.

**5.2 Sustainable Transport: No objection**

The site is located within one of the City's Controlled Parking Zones (CPZ) and therefore on street parking is available within the vicinity of the site. The central location means the site is accessible by car/bus/cycle and walking. The internal store could be used for staff cycle parking. No condition is required for cycle parking as there is nearby on street cycle parking for customers.

**5.3 Environmental Health: No objection**

The proposal is not for a gym with weights, running machines, rowing machines, cross trainers etc but rather classes such as yoga and pilates and therefore there are no noise concerns.

**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

CP4 Retail provision

CP9 Sustainable transport

CP15 Heritage

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

TR7 Safe Development

TR14 Cycle access and parking

QD27 Protection of amenity

SR5 Town and district shopping centres

HE6 Development within or effecting the setting of conservation areas

Supplementary Planning Guidance:

SPD14 Parking Standards

## 8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the to the principle of the change of use, the amenities of adjacent occupiers and transport matters,

### 8.2 Principle of Development:

The application site falls within the primary frontage of the Hove Town Centre therefore policy SR5 of the Brighton & Hove Local Plan applies. The policy aims to ensure that a healthy balance and mix of uses is retained and concentrations of uses other than Class A1 are avoided.

8.3 The application site comprises a retail unit (A1) at ground floor currently being occupied by Bang & Olufsen an electronics store. The basement area, of which the change of use would take place, is currently being used as storage for the A1 unit.

8.4 Policy SR5 seeks to preserve only the ground floor retail frontage only. The change of use would occur within the basement and therefore the provision of a ground floor retail frontage would be preserved. An A1 use would be retained at ground floor level, retaining the A1 service and it is considered that the loss of the basement storage area would not harm the viability of the ground floor retail unit with an adequate amount of storage space being retained within the ground floor unit.

It is therefore considered that the use of basement as a fitness studio (D2) would not notably alter the prevailing character of the Hove Town Centre and would not affect the retail viability of the ground floor unit, in compliance with SR5.

**8.5 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.

- 8.6 The proposal for a fitness studio (D2 use) could have the potential to result in noise nuisance toward the adjoining residential units in the nearby vicinity. Within section 3.1 of the submitted Planning Statement it is stated that the fitness studio would accommodate the following types of leisure activities- yoga, pilates, physiotherapy, meditation, tai chi and Oigong and pregnancy and post natal classes.
- 8.7 Environmental Health when considering the previous application for the change of use to a gymnasium (prior approval), raised concerns regarding the transmission of noise and vibration from music, instructors or structure borne noise from equipment associated with the gym. No acoustic report had been submitted with the application to confirm that the gymnasium would not result in amenity harm. This was one of the reasons of refusal of this application.
- 8.8 Environmental Health in considering this application for a change of use to a fitness studio, consider that given the unit would be used for classes such as yoga and pilates rather than a gym there would be no noise concerns.
- 8.9 The studio would be accessed to the rear of the site via a door from Albert Mews. The premise is below a commercial unit, with residential at upper floors and not directly adjoining residential properties. The residential properties of Airlie House and Grand Avenue Mansions to the rear of the premises are not directly adjoining. The residential properties of Albert Mansions to the east of the site comprise of residential at upper floors. It is also noted that Albert Mews consists of a motor garage and art studio, and therefore there is already the presence of a mix of commercial with residential uses. Given the use of the premise as a fitness studio with classes such as yoga and pilates it is not considered that noise or disturbance from the use would result in amenity harm.
- 8.10 Conditions are recommended to ensure that the windows and door to the rear are shut during classes when amplified music is played. It is also considered necessary to restrict the use of the premise to a fitness studio only in accordance with the details set out in the application and for no other purpose within the D2 Use Class.
- 8.11 The opening hours between the hours of 08:00 and 21:00 on Mondays to Fridays, 09:00 and 18:00 Saturdays and 10:00 and 16:00 Sundays, including Bank or Public Holidays are considered acceptable for this type of use. A

condition is recommended to restrict the opening hours to protect neighbouring amenity.

8.12 The application does not include the installation of air conditioning. An informative is attached advising the applicants that a further application would be required for such works.

8.13 **Transport:**

The site is located within one of the City's Controlled Parking Zones (CPZ) and therefore on street parking is available within the vicinity of the site. This level of provision and existing controls of surrounding streets is considered sufficient to ensure the development would not create a harmful demand for travel.

8.14 No cycle parking is proposed. Given the site constraints and on street cycle parking within the vicinity of the site, it is not considered necessary to secure a condition for details of cycle parking in this instance.

8.15 **Other Matters:**

Objectors have raised concern regarding access rights to Albert Mews by the use of customers using the fitness studio. Objectors have noted that the use of Albert Mews is for the residents of the Albert Mews properties and that the applicant does not have rights to use Albert Mews as an access road. The agent has confirmed that the property (56 Church Road) has 24 hour access to Albert Mews including vehicle access. Notwithstanding this, rights of way and private access disputes are a civil matter and do not form part of the determination of a planning application.

**9. EQUALITIES**

9.1 None identified



Ref BH2018/00224 56 Church Road Hove  
Councillor: Andrew Wealls

Please note my objection to application BH2018/00224  
I draw your attention to three specific statements set out in the applicant's  
Planning Statement;

'4.10 Policy QD27 states that planning permission for a change of use will not be granted where it would cause material nuisance and loss of amenity to neighbouring residents.'

Access to the premises is via Albert Mews, a narrow single car width alley. This alleyway is to the rear of Airlie House and Grand Avenue Mansions. The activities proposed at the site are groups activities, which means arrival and exit from the site will tend to be in large groups. They will undoubtedly create noise and therefore negatively impact the amenity of neighbouring properties, many of which have bedrooms overlooking Albert Mews. This will be in addition to any car movements. Albert Mews is narrow, there is no opportunity to turn safely and so inappropriate for any pick up and drop off use. Any music which accompanies group exercise activity is likely to be audible to neighbouring residents. Without air conditioning, it is likely windows and the main door will be open especially during summer months, substantially increasing the risk of noise nuisance to neighbours.

'5.4 The proposed studio would not include activities or equipment more commonly associated with a gym such as weights, running machines, rowing machines, cross trainers or spin classes. No air conditioning is required or proposed as part of the proposed use. Given the calm nature of the activities to be carried out at the studio, there would be no harm to residential amenity from noise or vibration. As such, an Acoustic Assessment has not been carried out. Any concerns about noise being generated by visitors arriving or leaving the studio could be addressed by a planning condition which avoids opening during anti-social hours (e.g. 21:00 to 08:00).'

Whilst the current proposal is for a restricted set of uses the application is for a full change of use to Fitness Studio (D2). The previous application described D2 use as 'gymnasium'. D2 use is legally described as; 'D2 Assembly and leisure - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations'.

By granting this application, there would be no guarantee that the uses described in the applicant's Planning Statement that only activities of a 'calm nature' would be carried out there. Again the potential for noise associated with group exercise classes is of considerable concern, in spite of the Planning Statement's undertaking.

'6.3 The studio would be used for exercise classes such as yoga, pilates and tai chi but would not include gym equipment such as weights, running/rowing

COUNCILLOR REPRESENTATION

machines or cross trainers. The concerns raised in response to the previous application for prior approval for a change of use to a gym (BH2017/03245) relating to noise disturbance are therefore no longer relevant.'

The concerns set out with regard to gym use are entirely applicable. Indeed with group class activity, the arrival and departure of groups of substantial size is likely to cause noise nuisance. Whilst yoga, tai-chi and pilates are not noisy activities, there is no way in which a guarantee can be assured that noisy group classes such as Zumba etc would not be held. It could be possible to place a restriction on the playing of recorded so that none is allowed, which may eliminate this specific risk.

Reduced allowed opening times may help too.



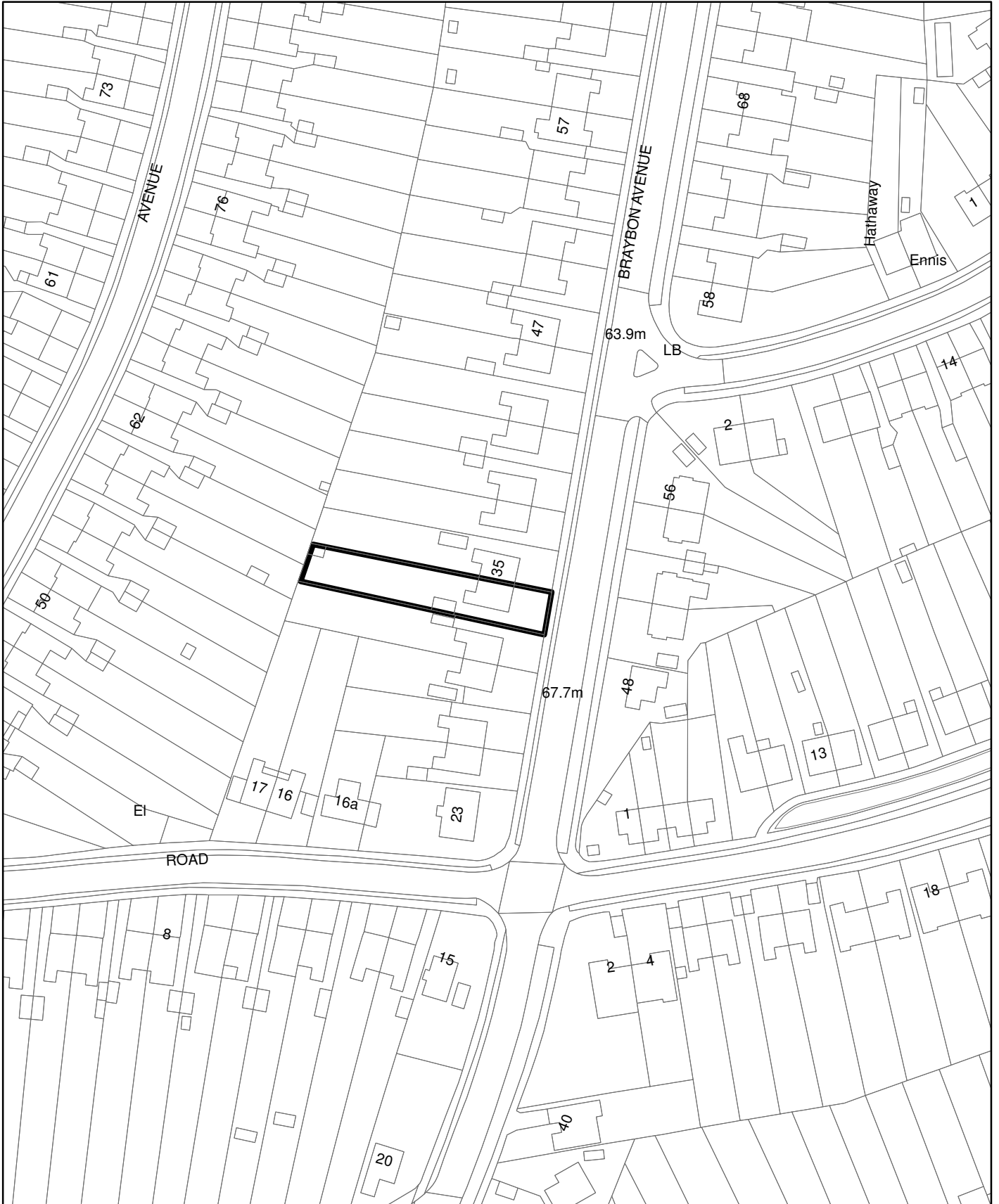
# **ITEM F**

**33 Braybon Avenue,  
Brighton  
BH2018/01854  
Householder Planning Consent**

**DATE OF COMMITTEE: 12<sup>th</sup> September 2018**



# 33 Braybon Avenue Brighton



N



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/01854</b>	<b><u>Ward:</u></b>	<b>Patcham Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>33 Braybon Avenue Brighton BN1 8HH</b>		
<b><u>Proposal:</u></b>	<b>Erection of single storey rear extension.</b>		
<b><u>Officer:</u></b>	Sven Rufus, tel: 292454	<b><u>Valid Date:</u></b>	08.06.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	03.08.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mr Alistair Dodd 72A Beaconsfield Road Brighton BN1 6DD		
<b><u>Applicant:</u></b>	Ms M Seale 33 Braybon Avenue Brighton BN1 8HH		

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

## 1. RECOMMENDATION

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

### Conditions:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Block Plan Proposed	ADC977/LP		8 June 2018
Floor plans/elevations/sect proposed	ADC977/08	A	16 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. 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 privacy screen on the northern side of the terrace hereby approved shall be installed prior to first use and thereafter retained at all times.

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

Informatives:

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

**2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application site is a semi-detached two-storey, Mock-Tudor property on the west side of Braybon Avenue.
- 2.2 The application seeks to erect a single storey rear extension with an area of decking beyond, and privacy screening to the side.

**3. RELEVANT HISTORY**

- 3.1 None

**4. REPRESENTATIONS**

- 4.1 One (1) letter has been received from a neighbour, objecting to the proposed development for the following reasons:  
The 1.8m privacy screen would reduce light to the neighbours conservatory.
- 4.2 Subsequent to the objection above, the applicant in discussion with and with the agreement of, the objecting neighbour, reduced the height of the privacy screen to 1.4m. The neighbour objection was withdrawn by follow up comments and so there are no remaining objections.

**5. CONSULTATIONS**

- 5.1 None

**6. MATERIAL CONSIDERATIONS**

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2 The development plan is:
  - Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);

- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- East Sussex, 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

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

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 design and appearance of the proposed extension, and the impact on the amenity of the neighbouring properties by the extension, terrace and privacy screen.

### 8.2 **Design and Appearance:**

The rear elevation of the existing property includes two structures at either side of the property, and separated by a narrow staircase from the internal ground floor level down to the garden level. The proposed extension would occupy the same footprint as the existing structures in terms of depth and width, while removing and enclosing the space currently occupied by the staircase.

8.3 The new structure would include a new roof over the entire width of the extension which would be a continuation of the existing roof over the southern element of the existing structures at the rear of the property. While this would result in the roof being higher than at present over the majority of the width of the property, the unified and continuous roof form here would create a more coherent appearance to the rear elevation and is considered as an acceptable alteration.

8.4 The proposed rear extension, by occupying the same footprint would, notwithstanding the additional height on the roof, be substantially similar in terms of scale, to the existing structures. It is considered that the proposed design would enhance the appearance of the rear of the property by creating a single structure in place of the separate and mismatching existing elements.

- 8.5 **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.
- 8.6 The rear terrace beyond the proposed extension would provide potential impact on the amenity of the neighbours to the north, in 35 Braybon Avenue, to which the application site is attached as part of a semi-detached pair. Rear terraces can provide dominant views over neighbouring gardens as a result of the elevated position, and consequently can be harmful to the amenity of neighbours through overlooking and loss of privacy. In this case, the views from the proposed terrace would differ little from views currently possible from the rear windows of the existing structures at the rear of the application site. Therefore, from this perspective the harm to amenity of the terrace is considered to be acceptable.
- 8.7 In order to reduce overlooking into the rear windows of the neighbouring property, the applicant included a 1.8m privacy screen in the original application. This would have been excessive in height and would have resulted in a loss of light to the neighbouring property, which was reflected in the objection received from that address. Following this objection, and in discussion and agreement with the neighbours, the height of the screen has been reduced to 1.4m, and the neighbour objection has been withdrawn.
- 8.8 A privacy screen of 1.4m retains the potential for overlooking from the terrace towards the neighbouring property, but in light of the agreement by the neighbours, it is not considered reasonable to refuse the privacy screen at a height of 1.4m on this basis.

## 9. EQUALITIES

- 9.1 None identified.



**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	KAP, Newtown Road, Hove	Hove Park	Mixed Use residential / B1 scheme. Approx. 150 units	
14/08/18	21 – 24 Melbourne Street, Brighton	Hanover & Elm Grove	Co-living (100 units) C3 / B1	
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, Brighton	Hollingdean & Stanmer	Residential development.	Officer pre-app response sent 20/08/2018
09/10/18 requested	Land at former Belgrave Nursery, Clarendon Place Portslade	South Portslade	Residential redevelopment.	
09/10/18 requested	Urban Fringe Site At The Whitehawk Estate Brighton	East Brighton	Residential redevelopment.	

**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 46

Brighton & Hove City Council

### NEW APPEALS RECEIVED

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****HANGLETON AND KNOLL**

BH2017/03666

1 Bramber Avenue Hove BN3 8GW

Erection of single storey side extension with rooflight.

APPEAL IN PROGRESS

15/08/2018

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****APPEAL STATUS****APPEAL RECEIVED DATE****APPLICATION DECISION LEVEL****HANOVER AND ELM GROVE**

BH2018/00463

40 Islingword Road Brighton BN2 9SF

Alterations to roof incorporating raised ridge, rear dormer and 2no rooflights to front elevation

APPEAL IN PROGRESS

15/08/2018

Delegated

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

BH2017/03801

19 Southdown Avenue Brighton BN1 6EH

Conversion of existing office (B1) to residential use (C3), creation of 1no two bedroom flat and 1no one bedroom flat. Revisions to fenestration and creation of new street access.

APPEAL IN PROGRESS

30/07/2018

Delegated

**WARD****APPEALAPPNUMBER****ADDRESS****DEVELOPMENT DESCRIPTION****ROTTINGDEAN COASTAL**

BH2017/03581

3 Bevendean Avenue Saltdean Brighton BN2 8LR

Roof alterations incorporating raising the ridge height, barn end to gable end roof extension to the front, gable end roof extension to rear, hip to gable roof extension to side, 6no rooflights to front, side and rear, front balcony and erection of single storey front/side extension and porch, and associated alterations, including to the fenestration.

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 20/07/2018  
APPLICATION DECISION LEVEL Delegated

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**WARD**

**ST. PETER'S AND NORTH LAINE**

APPEALAPPNUMBER

BH2018/00349

ADDRESS

76 Upper Gloucester Road Brighton BN1 3LQ

DEVELOPMENT DESCRIPTION

Erection of additional storey on top of existing structure and conversion of existing 1no two bedroom flat (C3) to form 2no one bedroom flats (C3) with associated roof alterations and revised fenestration.

APPEAL STATUS

APPEAL IN PROGRESS

APPEAL RECEIVED DATE

20/07/2018

APPLICATION DECISION LEVEL

Delegated

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**APPEAL DECISIONS****A) BH2018/00484 - 299 DYKE ROAD, HOVE BN3 6PD**

Appeal against refusal to grant planning permission for proposed two storey side extension above the existing garage.

**Appeal Dismissed**

**B) BH2018/00602 – LANTERNS, THE GREEN, ROTTINGDEAN, BN2 7DD**

Appeal against refusal to grant planning permission for proposed conversion of attic space with three dormers to the front roof slope and three rooflights to the rear roof slope.

**Appeal Dismissed**

**C) BH2018/00481- 97 BRADING ROAD, BRIGHTON, BN2 3PE**

Appeal against refusal to grant planning permission for proposed loft conversion constructing a flat roof dormer over the rear office linking into the existing dormer.

**Appeal Dismissed**

**D) BH2018/00279 - 15 FAIRFIELD GARDENS, PORTSLADE, EAST SUSSEX  
BN41 2BJ**

Appeal against refusal to grant planning permission for proposed first floor rear extension

**Appeal Dismissed**

**E) BH2017/01882 - 90A Shaftesbury Road, Brighton BN1 4NG**

Appeal against non-determination of an application to conversion of 6 no garages to 2 no one-bedroom ground floor flats (C3) within the prescribed period.

**Appeal Allowed – Non-Determination**

**F) ENFORCEMENT NOTICE 2016/05245 - 24 BRADING ROAD, BRIGHTON,  
BN2 3PD**

Appeal against enforcement notice issued on 10 May 2017 alleging that the property was in use as a 7 bedroom large House in Multiple occupations (Sui Generis) and instructing the operator to revert back to use as a small House in Multiple Occupation (C4).

**Appeal Allowed – Enforcement Notice**

**G) 36 GARAGES, WALSINGHAM ROAD, HOVE BN3 4FF**

Appeal against refusal to grant planning permission for the proposed described as 'Amendment to planning approval BH2014/02571 (Conversion and part demolition of detached garages to form 1 no. one bedroom single-storey dwelling) in order to create a two bedroom dwelling single-storey dwelling'.

**Appeal Dismissed**

**H) BH2017/00951 - 60 LYNTON STREET, BRIGHTON, BN2 9XR**

Appeal against non-determination of the application which proposed the addition of a dormer to the rear roof pitch and roof lights to the front roof pitch.

**Appeal Dismissed**

**I) BH2017/02221 - MEADOWS, 18 ROEDEAN WAY, BRIGHTON BN2 5RJ**

Appeal against refusal to grant permission for demolition of existing garages and creation of a new dwelling on land to the east of meadows.

**Appeal Dismissed**

**J) BH2018/00863 - 16 HOVE PARK ROAD, HOVE BN3 6LA**

Appeal against refusal to grant planning permission for proposed single storey rear extension, first floor extension and remodelling of roof to form additional accommodation with associated works.

**Appeal Allowed - Delegated decision**

**K) BH2018/00131 - 43 SURREY STREET, BRIGHTON BN1 3PB**

Appeal against refusal to grant planning permission for retrospective replacement of front elevation windows in conservation area.

**Appeal Dismissed**

**L) BH2017/04028 - 1 ESKBANK AVENUE, BRIGHTON BN1 8SL**

Appeal against refusal to grant planning permission for proposed hip to gable end roof extension with front and rear dormer windows and a single storey flat roof rear extension.

**Appeal Dismissed**

# Appeal Decision

Site visit made on 23 July 2018

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 August 2018**

## **Appeal Ref: APP/Q1445/D/18/3202748**

### **299 Dyke Road, Hove BN3 6PD**

- 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 Stewart Gray against the decision of Brighton & Hove City Council.
- The application, Ref. BH2018/00484, dated 14 February 2018, was refused by notice dated 28 March 2018.
- The development proposed is a two storey side extension above the existing garage.

### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues are (i) the effect of the proposal on the character and appearance of the existing house and the street scene of Dyke Road, and (ii) the effect on the living conditions for the occupiers of 297 Dyke Road as regards light, outlook and privacy.

### **Reasons**

3. On the first issue, the principle of an overtly contemporary extension of radically different appearance to the host dwelling has been established by the grant of planning permission ref. BH2017/03006 in February 2018. The main difference in this appeal is the introduction of a mezzanine level that has the effect of increasing the height of the proposed extension to just below the ridge line of the host dwelling.
4. Accordingly, the first issue is much more straightforward than it might otherwise have been. And given that the extant permission is both a significant material consideration and the appellant's likely fallback position, the planning judgement is simply whether the visual impact of the extension in relation to both the host dwelling and the street scene would be acceptable.
5. In this regard, the grounds of appeal refer to the screening effect of the front hedge and its rate of growth. However, whilst I acknowledge that this hedge is indeed a highly effective screen, I can give it very little weight in my Decision due to the fact that either the appellant or a future owner of the property could remove it at any time, either through their preference or because of it becoming diseased. In any event, the appellant and his architect would recognise that the extension should be assessed on its individual merits.

6. On the main point of the visual impact, I accept that the forward projection of the proposed extension in front of the two storey north wing of the house is neither here nor there – it would make little difference in views from Dyke Road. The important factor is the height, especially in relation to the host dwelling.
7. As regards the height, the first matter to make clear is that I share the Council's view that the permission granted in February of this year was a 'distinctive and innovative' design that warranted an approval and that that scheme would make a positive contribution to the varied character and appearance of Dyke Road as described in the grounds of appeal. However, fundamental to the planning judgement in that case was (and still is) that the extension would be 'read' successfully with the host dwelling.
8. Most Local Planning Authorities' (LPA's) policies and design guides for domestic extensions refer to the need for 'subservience' or 'subordination' as a requirement for a successful addition, and Brighton is no exception. In fact on some (albeit infrequent) occasions, decisions by LPAs adhere so strictly to this mantra, that there is a failure to recognise that development proposals for enlargement can upgrade design quality or change the original appearance of a dwelling so completely that they deserve to succeed despite not being subservient.
9. However, in my view permission ref. BH2017/03006 is a success (or will be if built) precisely because it would be read from Dyke Road as the subservient element of the dwelling as a whole. The strikingly different appearance of the extension to the existing building (which I note has a contemporary feel but is in fact improved from a more traditional appearance) is so great that it needs its lower height for the existing and proposed to be read together as an entity that draws the eye, but at the same time is not perceived as 'overkill' as regards a contrast in styles with a concomitant visual impact.
10. In the case of the current proposal, the slight set-down from the existing ridge would be insufficient to preclude the extension being read as comprising too much of a contrast with the dwelling's appearance and thereby noticeably incongruous. And it is only with this greater impact as a result of the height that the provisions of Policy QD14 of the Brighton & Hove Local Plan (Retained Policies March 2016) and the guidance in SPD12 Design Guide for Extensions & Alterations 2013 become relevant.
11. The appeal decision at No. 4 Elrington Road in Hove has been drawn to my attention as an example that should be followed. However, I am unable to give it significant weight because that was a roof extension rather than a side addition, with the comparisons in height between that and this proposal being influenced by differing considerations.
12. Overall on this issue, I conclude that proposal would have a harmful effect on the character and appearance of the existing house and the street scene of Dyke Road. This would conflict with Local Plan Policy QD14 and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2018.
13. Turning more briefly to the second issue, the effect on the living conditions for the neighbours at No. 297, the Council agrees with the objector living at that



property in respect of the scheme resulting in a loss of light, privacy and outlook. Clearly, a higher building than the existing garage will have some effects, but given that the appeal property lies to the north of No. 297; that the extension's rear elevation would be set further back and angled away, and that linear development patterns such as along Dyke Road invariably have some mutual overlooking, I am not convinced on the evidence before me that these factors would comprise a conflict with Local Policy QD27 and justify a dismissal of the appeal.

14. In the event, this is a somewhat academic point because on the first issue I consider the proposal to be unacceptable. In reaching my Decision I have noted the sharp difference of opinion on the design issue amongst those who have made representations on the application. However, I have explained my own opinion on this contentious issue in the above paragraphs, and for these reasons and having had regard to all other matters raised, the appeal is dismissed.

*Martin Andrews*

INSPECTOR



## Appeal Decision

Site visit made on 23 July 2018

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 August 2018**

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### **Appeal Ref: APP/Q1445/D/18/3202580**

### **Lanterns, The Green, Rottingdean, Brighton BN2 7DD**

- 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 Nicholas James against the decision of Brighton & Hove City Council.
  - The application, Ref. BH2018/00602, dated 24 February 2018, was refused by notice dated 26 April 2018.
  - The development proposed is the conversion of attic space with three dormers to the front roof slope and three rooflights to the rear roof slope.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the proposed dormers on the character and appearance of the existing dwelling and whether as a consequence the character or appearance of the Rottingdean Conservation Area would be preserved or enhanced.

### **Reasons**

3. I saw on my visit that the appeal building is part of a group of former farm buildings now used for residential purposes that include the Grade II listed Challoners and Little Challoners and the locally listed Court Barn. As an historic feature with an appearance that serves as a reminder of the agricultural origins of the settlement around The Green, the group makes a valuable contribution to the significance of the conservation area as a designated heritage asset
  4. The Council's objection to the appeal proposal is that the insertion of dormer windows would spoil the appearance of *'the long uninterrupted clay tile roof'* of Lanterns, considered to be a key feature of the building's significance and thereby making an important contribution to the character and appearance of the conservation area.
  5. In principle I consider this judgement is correct, and although the grounds of appeal refer to other dormers approved by the Council in the Rottingdean Conservation Area I consider that this is a type of development in which the individual circumstances of each building and its setting must prevail.
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6. That said, the proposal would cause '*less than substantial harm*' to the significance of the designated heritage asset under Government policy in Section 16: 'Conserving and Enhancing the Historic Environment' of the National Planning Policy Framework 2018 ('the Framework'). In these circumstances paragraph 196 of the Framework applies, whereby '*this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*'.
7. I consider that full and effective use as a dwelling including accommodation in the roof space is not only needed to meet the family needs of the appellant, but is also a public benefit that fits within both this definition and the more detailed explanation in paragraph 020 Reference ID: 18a-020-20140306 of the Government's Planning Practice Guidance 2014. This includes heritage benefits but also has a wider remit.
8. However, whilst I conclude on the main issue that the proposed dormers would not preserve the character and appearance of the conservation area and would therefore be in conflict with Policies QD14 & HE6 of the Brighton & Hove City Plan Part One 2016, I am also of the view that the public benefit in this instance would not outweigh the harm caused.
9. On the other hand, this may well not be the case with a revised scheme that causes less harm. And in this regard I note that the 'Conservation Areas and Buildings of Local Interest' section of the Council's Design Guide for Extensions and Alterations SPD 2013 indicates a flexible approach that seeks to accommodate development, including roof extensions, in conservation areas, whilst maintaining the heritage credentials of buildings.
10. However, further guidance on a compromise proposal does not fall within the scope of my determination of this appeal and for the reasons explained the appeal is dismissed.

*Martin Andrews*

INSPECTOR

# Appeal Decision

Site visit made on 23 July 2018

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 August 2018**

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**Appeal Ref: APP/Q1445/D/18/3202139**

**97 Brading Road, Brighton BN2 3PE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Sandra Castle against the decision of Brighton & Hove City Council.
  - The application, Ref. BH2018/00481, dated 30 January 2018, was refused by notice dated 26 March 2018.
  - The development proposed is a loft conversion constructing a flat roof dormer over the rear office linking into the existing dormer.
- 

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the dwelling and its surroundings and the effect on the living conditions for the occupiers of the house and adjoining properties as regards outlook.

## Reasons

3. The appeal scheme seeks to add a flat roofed extension in the form of a box dormer over most of the length of the roof of the existing outrigger to the property. The new dormer would join up with the existing full width dormer on the rear roof plane of the dwelling, thereby creating a single unit of accommodation.
  4. However, the existing outrigger is already two storeys in height and I consider that the overall bulk and flat roof of the combined extensions would, through the effective creation of a fully three storey addition to the dwelling, be unduly dominant in relation to both the existing house and its neighbours in this closely knit terrace with its high depth to width proportions.
  5. The Officer's report explains that proposals of this type are precluded by the Council's Design Guide for Extensions and Alterations SPD 2013. And having consulted this document I agree with this view because the proposed extension would occupy the full width of the outrigger's flat roof.
  6. On the second issue, I saw on my visit that there is very limited outdoor space immediately to the rear of Nos. 97 and 99 between their two extensions. The
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addition of a third storey at No. 97 would increase the sense of enclosure for the occupiers of both properties to an unacceptable extent.

7. I acknowledge that the appellants are not concerned on this point as regards their own dwelling and that there has been no objection made by the neighbour. Nonetheless the planning system seeks to prevent such unsatisfactory relationships in the long term public interest.
8. Overall, I consider that the proposal would harm the character and appearance of the dwelling and its surroundings and have an adverse effect on the living conditions for the occupiers of the house and the adjoining property at No. 99 as regards outlook. This would conflict with Policies QD14 & QD17 of the Brighton & Hove City Plan Part One 2016 and with Government policy in Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2018.
9. I have seen the photographs of other similar developments in Bonchurch Road attached to the grounds of appeal. In the case of No.113, as far as I can tell this appears to have been constructed under a Certificate of Lawful Development, but in my view this does not mean that this and other mechanisms of permitted development should necessarily be binding on planning judgements made in the assessment of applications. The latter are decided having regard to adopted policies and planning guidance, even if this is sometimes perceived as being inconsistent.
10. For the reasons set out above the appeal is dismissed.

*Martin Andrews*

INSPECTOR

## Appeal Decision

Site visit made on 23 July 2018

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 August 2018**

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### **Appeal Ref: APP/Q1445/D/18/3202082**

### **15 Fairfield Gardens, Portslade, East Sussex BN41 2BJ**

- 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 B Hutton against the decision of Brighton & Hove City Council.
  - The application, Ref. BH2018/00279, dated 29 January 2018, was refused by notice dated 10 April 2018.
  - The development proposed is a first floor rear extension.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the proposed extension on the character and appearance of the host dwelling.

### **Reasons**

3. The proposed first floor addition would be constructed to occupy part of the full width existing ground floor extension to the rear of the property. With a proposed flat roof just below the dwelling's eaves it would be read in conjunction with a hip to gable roof extension and associated flat roof dormer, a development the subject of a Lawful development Certificate.
  4. I consider that both the bulk and flat roof of the extension in this appeal would neither be sympathetic nor subservient to the host dwelling and agree with the Council that together with the roof extensions the form and extent of the additions would be an indication of the property's overdevelopment.
  5. I acknowledge that the extension would to all intents and purposes not be visible from the public realm in Fairfield Gardens. However, there would still be private views from nearby rear gardens, whilst the planning system includes a basic presumption that irrespective of its prominence the extension of buildings should be of an appropriate scale and good design. In this regard, page 9 of the Council's Design Guide for Extensions and Alterations SPD 2013 specifically discourages flat roofs for two storey extensions unless the host dwelling also has a flat roof.
  6. I have noted the comments in the grounds of appeal that because of the roof extensions, a flat roof on this addition is the only one possible. However, this does not outweigh the normal requirement for extensions that are outside
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permitted development tolerances to be of a size and design that is in harmony with the appearance of the existing building. Similarly, this requirement is not waived because the Council has not identified any harmful impact on the living conditions for the occupiers of the houses on either side of No. 15.

7. Overall, I conclude that the proposed extension would have a harmful effect on the character and appearance of the host dwelling. This would conflict with Policy QD14 of the Brighton & Hove City Plan Part One 2016 and Government policy in Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2018.
8. For these reasons the appeal is dismissed.

*Martin Andrews*

INSPECTOR





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## Appeal Decision

Site visit made on 9 July 2018

**by Richard Aston BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13<sup>th</sup> August 2018.**

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### **Appeal Ref: APP/Q1445/W/17/3191000 90A Shaftesbury Road, Brighton BN1 4NG**

- 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 John Fernley against Brighton & Hove City Council.
  - The application Ref BH2017/01882, is dated 2 June 2017.
  - The development proposed is conversion of 6 no garages to 2 no one-bedroom ground floor flats (C3).
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for conversion of 6 no garages to 2 no one-bedroom ground floor flats (C3) at 90A Shaftesbury Road, Brighton BN1 4NG in accordance with the terms of the application, Ref BH2017/01882, dated 2 June 2017, subject to the following conditions:
  - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plans: 37081/1, 37081/2, 37081/3, 37081/4A, 37081/5 and 37081/6A.
  - 3) The development hereby permitted shall not be occupied until secure cycle parking and refuse storage facilities have been provided in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The secure cycle parking and refuse storage facilities shall thereafter be kept available for such purposes.
  - 4) Prior to first occupation of the development hereby permitted a plan detailing the position, height, design, materials and type of any proposed boundary treatments 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 first occupation of the development and thereafter be retained as approved.

### **Procedural Matter**

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. I have not been provided with confirmation

that the change was agreed between the parties and therefore I have used the description given on the original application form in the formal decision above.

### **Main Issue**

3. The Council have confirmed that had they been in a position to determine the application they would have granted planning permission subject to conditions and I have taken this into account in my decision. On the basis of the evidence before me, the main issue in this appeal is whether the proposed development would be a suitable site for housing, having regard to the character and appearance of the area, highway safety, internal space standards and the living conditions of neighbouring occupiers.

### **Reasons**

4. The appeal site is a garage court to the rear of a row of Victorian terraced houses fronting Shaftesbury Road. The yard is accessed via a narrow vehicular passage between 90 and 92 Shaftesbury Road. At either end of the Yard are 2, 2 storey buildings with garages to the ground floor and residential units above<sup>1</sup>. The ground floor garages (3 in each building) are proposed to be converted to 2, 1 bedroom units.
5. The appeal site is within an established residential area and the principle of the conversion would be entirely in keeping with surrounding uses. It would result in external changes to the appearance of the buildings but such changes would only be visible from within the courtyard and in an area where there is some variety in the form and appearance of surrounding rear elevations. In such a context the proposal would not cause any harm to the character and appearance of the area.
6. The proposal would provide no off-street parking spaces but the appeal site is centrally located close to a wide array of services and facilities, including public transport options. Although surrounding streets were heavily parked, with vehicles on both sides of the road, there is no evidence before me of any particular highway safety issues associated with on-street parking in this locality. Surrounding streets are also part of a controlled parking zone. From my observations, albeit during the late morning, some spaces were available and the level of likely vehicle movements associated with the proposal would be low. Any modest increase in potential on-street parking demand as a result of the proposal would not therefore have a harmful effect on highway safety.
7. The proposal would provide suitable standards of internal space given they are more likely to be occupied as 1 person, 1 bedroom units. Even if they were occupied by 2 persons, the shortfalls are insignificant and the layout and arrangement of the units would be adequate. I am satisfied that in either scenario acceptable living conditions for future occupiers would be provided.
8. I have had regard to the representations made by third parties but to my mind the introduction of 2 additional, 1 bedroom units within such a busy, urban residential area would not result in any additional harm in terms of noise or general disturbance that would harm the living conditions of neighbouring occupiers. I am satisfied that details of refuse and recycling can be agreed by condition and there is nothing substantive to suggest that access could not be obtained by the emergency services.

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<sup>1</sup> BH2014/01501.

9. For these reasons, the proposed development would be a suitable site for housing, having regard to the character and appearance of the area, highway safety, internal space standards and the living conditions of neighbouring occupiers. The Council have not advised me of any specific development plan policies that are most important to this appeal but when read as a whole, there would be no conflict with the policies of the Brighton & Hove City Plan Part One or the Brighton and Hove Local Plan<sup>2</sup>.

### **Conditions**

10. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. A condition is required to ensure compliance with the approved plans as this provides certainty. Although some details of cycle parking are shown, these require further consideration and a condition relating to the provision of cycle storage is therefore necessary in the interests of promoting sustainable transport. A condition requiring refuse storage details in order to protect living conditions of neighbouring occupiers is also necessary. I have combined these requirements into a single condition. A condition relating to details of boundary treatments is necessary to protect the character and appearance of the area. Given a lack of clarity on the plans insofar as these matters are concerned the details should be agreed with the Council.

### **Conclusion**

11. For the reasons set out above, the proposal would accord with the development plan, when read as whole. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be allowed.

*Richard Aston*

INSPECTOR

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<sup>2</sup> Listed in Section 7 of the Council's statement of case.






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## Appeal Decisions

Site visit made on 11 June 2018

by **D E Morden MRTPI**

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

Decision date: 29 August 2018

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### **Appeals A & B: APP/Q1445/C/17/3179004 & 3179005 24 Brading Road, Brighton, BN2 3PD**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr C and Mrs A Hawes against an enforcement notice issued by Brighton & Hove City Council.
- The enforcement notice Ref: ENF2016/05245 is dated 10 May 2017.
- The breach of planning control as alleged in the notice is the material change of use from a small House in Multiple Occupation (C4) to a 7 bedroom large House in Multiple occupation (Sui Generis).
- The requirements of the notice are to cease the use of the property a large House in Multiple Occupation (Sui generis).
- The period for compliance with the requirements is 3 months.
- The appeals are proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeals are allowed subject to conditions as set out in the Formal Decision at paragraph 10 below.**

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### **Appeal C: APP/Q1445/W/17/3178994 24 Brading Road, Brighton, BN2 3PD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs A Hawes against the decision of Brighton & Hove City Council.
- The application Ref BH2017/00051, dated 7 January 2017, was refused by notice dated 2 May 2017.
- The development proposed is material change of use from a 6 bedroom small House in Multiple Occupation (C4) to a 7 bedroom House in Multiple Occupation (Sui Generis).

**Summary of Decision: The appeal is allowed subject to conditions as set out in the Formal Decision at paragraph 11 below.**

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**These decisions are issued in accordance with section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended and supersede those issued on 13 August 2018.**

### **Preliminary Matters**

1. Appeal C concerns a development that has already been undertaken and I shall therefore treat it as having been an application made under s73A of the Town and Country Planning Act 1990 (as amended).

## **Main Issues – Appeals A, B and C**

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

## **Reasoning**

3. Dealing with the first main issue, Policy CP21 in the Brighton and Hove City Plan Part One (adopted 1 March 2016) states that change of use to Houses in Multiple Occupation will be allowed in principle so long as the number of converted properties does not exceed 10% within a 50 metres radius of the appeal property. The Council acknowledged that permitting this change of use would result in that ratio reaching 9.6% and as such there could be no objection to the change from that standpoint. In those circumstances I conclude that there would be minimal change to the character of the surrounding community and the development would not materially harm its character.
4. Turning to the second main issue, the Council's main objection was to what it claimed would be an unacceptable reduction in the standard of accommodation being provided at the property and poor living conditions for the occupiers. Firstly, it was argued, one of the bedrooms would be below the minimum sizes set out in the Technical Housing Standards - nationally described space standard. Secondly, there would now be just two toilets and two showers for seven people whereas there had been three toilets and two bathrooms for six people.
5. The new bedroom created on the upper ground floor has an area of 6.76sqm and a maximum width of 2.1m. This results in a room that is 50mm narrower than the standard at its widest point and 0.8sqm less in area than the minimum. I acknowledge the appellant's view that these standards (which are not binding) are basically to be applied to new dwellings rather than HMOs and other existing developments but they provide a useful guide. Having said that I agree that the deficiency is minimal and could not, in my view, justify dismissing this appeal.
6. In terms of shower and toilet provision, the property satisfies the licensing authority for HMO purposes and there is still the provision of a toilet separate from any shower/bath room. Again, whilst I acknowledge that the standard of provision has been reduced slightly, I do not consider that the standard is poor enough to justify dismissing this appeal.
7. At lower ground floor level a large kitchen/dining room has been provided as well as a large lounge/living room and provided these rooms are retained for these purposes I consider that the provision overall is satisfactory for seven persons.

## **Conditions**

8. The Council did not suggest any conditions and the development has already been carried out. To ensure the living conditions of the existing and future occupants it would be reasonable to limit the number of persons living in the property and also to ensure that the communal areas and facilities are retained

as such and I will attach the necessary conditions to the permissions that I shall grant.

### **Conclusions**

9. Subject to the imposition of the conditions outlined in the preceding paragraph, and having regard to all other matters raised in the representations, I conclude that the appeals should be allowed.

### **Formal Decisions**

#### **Appeals A and B – APP/Q1445/C/17/3179004 and 3179005**

10. The appeals are allowed, the enforcement notice is quashed and planning permission is granted on the applications deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the change of use of the property at 24 Brading Road, Brighton BN2 3PD, as shown on the plan attached to the notice, from a small House in Multiple Occupation (C4) to a 7 bedroom large House in Multiple occupation (Sui Generis) subject to the following conditions:

- 1) The development hereby approved shall be occupied (for accommodation and living purposes) by a maximum of 7 persons at any time.
- 2) The living room and kitchen/dining room on the lower ground floor shall be retained as communal space at all times and neither room shall be used as a bedroom.

#### **Appeal C – APP/Q1445/W/17/3178994**

11. The appeal is allowed and planning permission is granted for the change of use of the property at 24 Brading Road, Brighton BN2 3PD from a small House in Multiple Occupation (C4) to a 7 bedroom large House in Multiple occupation (Sui Generis) in accordance with the terms of the application, Ref BH2017/00051, dated 7 January 2017, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby approved shall be occupied (for accommodation and living purposes) by a maximum of 7 persons at any time.
- 2) The living room and kitchen/dining room on the lower ground floor shall be retained as communal space at all times and neither room shall be used as a bedroom.

***D E Morden***

INSPECTOR








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## Appeal Decision

Site visit made on 9 July 2018

**by Richard Aston BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13<sup>th</sup> August 2018.**

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**Appeal Ref: APP/Q1445/W/17/3191841**

**36 Garages, Walsingham Road, Hove BN3 4FF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Miss India Carr against the decision of Brighton & Hove City Council.
  - The application Ref BH, dated 28 June 2017, was refused by notice dated 5 September 2017.
  - The development proposed is described as 'Amendment to planning approval BH2014/02571 (Conversion and part demolition of detached garages to form 1 no. one bedroom single-storey dwelling) in order to create a two bedroom dwelling single-storey dwelling'.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effect of the proposal on the character and appearance of the Sackville Gardens Conservation Area ('SGCA').
  - Whether the proposal would provide acceptable living conditions for the occupiers of No. 36 Walsingham Road, with particular regard to the provision of useable amenity space.

### Reasons

#### *Background*

3. The proposal before me follows the refusal of an application for residential development and the subsequent allowing of an appeal in 2015<sup>1</sup>. Whilst each case must be determined on its own merits I have had regard to this previous decision in the determination of this appeal.

#### *Conservation area*

4. I found that the significance of the SGCA partly lies in the interesting mix of house types along its three residential streets united by their very wide roads with views down to the seafront. Properties appeared to have uniformly shaped and modest rear garden and yard areas and although I observed outbuildings

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<sup>1</sup> APP/Q1445/W/15/3017300.

- within the rear gardens of some of the properties the gardens were free from significant development.
5. Despite the lack of any detailed analysis or objections from the Council's Conservation advisor I am not bound by their view. Having regard to the overall size and shape of the appeal site, the increase in size of the building and change to its form would result in it no longer appearing as a subsidiary ancillary building. On the contrary, covering the majority of the appeal site it would result in an over intensive form of development that would be at odds with the prevailing character and appearance of the SGCA's rear garden areas.
  6. The use of a sedum roof does little to alter this view and the replacement of an incidental outbuilding, entirely typical of those found to the side and rear of dwellings in the SGCA, with a built form of such an inappropriate scale would not be replacing poor design with better design. It would be an incongruous and unsympathetic addition that in such a context would not represent a high quality of design.
  7. I note that the previous Inspector in granting permission for the conversion of the existing garage building found that there would be a limited visual impact from the street. Whilst the proposal would not be fully visible from the street until travelling directly past the appeal site, it would be readily visible from a number of surrounding properties and the eye would be unacceptably drawn to its incongruity. Irrespective of this the requirement for development proposals to preserve or enhance the character or appearance of the SGCA applies with equal force whether or not the proposal is prominent or in public view and I find it would have much greater and more harmful effects than the approved scheme.
  8. For these reasons, the proposal would fail to preserve or enhance the character and appearance of the SGCA. It would therefore conflict with Policy CP12 of the Brighton and Hove City Plan Part One which, amongst other things requires development to raise the standard of architecture and design and conserve or enhance the city's built heritage and its settings.
  9. In the context of the National Planning Policy Framework ('the Framework'), the proposal would cause less than substantial harm to significance of a designated heritage asset. The limited public benefits of an increase in the amount and quality of living accommodation and economic benefits during construction do not outweigh the considerable importance and weight I give to the desirability of preserving or enhancing the character or appearance of the SGCA. Consequently, the proposal would not accord with the heritage and design objectives of the Framework.

#### *Amenity space*

10. I have not been provided with any adopted amenity space standards but nonetheless, the shape and layout of the proposal would result in a reduction in the existing rear amenity space<sup>2</sup> that appeared to solely serve a ground floor flat within No. 36. Moreover, having viewed the appeal site from the ground floor rear facing flat and taking into account the shape of the amenity space, it would not be practical or useable for the occupants of that unit to carry out activities other than sitting out and drying clothes, such as gardening or

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<sup>2</sup> This was fenced off from the appeal site at the time of my visit.

outdoor play. If the space is also to be shared with occupiers of other units in the building as the appellant suggests<sup>3</sup>, in my view the space would be wholly inadequate. Whilst I note the findings of the previous Inspector given the proximity of the appeal site to the seafront, this is not a direct equivalent or replacement and living conditions of the occupiers of No. 36 was not before him in that appeal.

11. For these reasons, the proposal would cause harm to the living conditions of the occupiers of No. 36 Walsingham Road in terms of useable amenity space. Consequently, the proposal would conflict with Policy QD27 of the Brighton and Hove Local Plan 2005 which requires development to not result in a loss of amenity to proposed and existing residents. The proposal would also conflict with the Framework's objective of ensuring a high standard of amenity for existing and future users.

### **Other Matters**

12. I note the appellant's reference to the presumption in favour of sustainable development as set out in Paragraph 11 of the Framework. However, the proposal would not accord with an up to date development plan and even if the so called 'tilted' balance in part d) ii applied, the harm that I have identified would not be outweighed by the public benefits. The application of policies in the Framework that protect assets of particular importance therefore provide a clear reason for refusing the development proposed. As such and either way, the proposal would not be the sustainable development for which Paragraph 11 indicates a presumption in favour.

### **Conclusion**

13. For the reasons set out above, the proposal would conflict with the development plan, when read as whole and the Framework. Material considerations do not indicate that a decision should be made other than in accordance with the development plan.
14. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

*Richard Aston*

INSPECTOR

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<sup>3</sup> 58.7sqm to serve 4 flats set out within the appellant's final comments.



## Appeal Decision

Site visit made on 24 May 2018

by **D E Morden MRTPI**

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

Decision date: 14 August 2018

**Appeal Ref: APP/Q1445/X/17/3176838**

**60 Lynton Street, Brighton, BN2 9XR**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
- The appeal is made by Mr D Harrison against Brighton & Hove City Council.
- The application (Ref.BH2017/00951) is dated 19 March 2017.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is the addition of a dormer to the rear roof pitch and roof lights to the front roof pitch.

**Decision: The appeal is dismissed.**

### Application for costs

1. An application for costs was made by Mr D Harrison against Brighton and Hove City Council. This application is the subject of a separate Decision.

### Preliminary Matters

2. The Council confirmed that it had no objection to the roof lights to be installed on the front roof pitch and was content that they were 'permitted development' not requiring formal planning permission by virtue of Class C of the Town and Country Planning (General Permitted Development ) Order 2015 (GPDO). I agree that the roof lights meet all the requirements and conditions of Class C and do not require formal planning permission.
3. The Council belatedly issued a refusal notice on the application (although I will deal with this appeal as a non-determination as that decision is of no effect, the appeal having already been made) and it set out two matters that the Council considered stopped the proposal from being permitted development.

### Reasoning

4. The Council's argument was that firstly, the extension would not be wholly within the curtilage of the appeal property and permitted development rights only apply to development within the curtilage of a dwelling house. Secondly, it would not comply with condition B.2,(b) of Class B of the GPDO which requires the edge of any enlargement to the roof, so far as is practical, to be not less than 0.2m from the original eaves when measured along the new roof slope.

5. Dealing firstly with the issue concerning the measurement to the original eaves, The Council stated that the plans that were submitted with the application were inaccurate in their depiction of the eaves. The appellant accepted this and included amended sections with the amended appeal statement (amended to take account of a reason for refusal that the Council included in its purported decision notice). The Council argued that the amended plans still did not show 200mm from the edge of the original roof eaves to the front face of the new dormer.
6. The appellant argued that scaling from drawings was prone to inaccuracy and critical dimensions were given as figures on the drawing which removed the need to scale. The only problem with that is that any figure can be put down on the drawing. The plans are at a scale of 1:50 which is large enough to scale accurately from and there is also a scale on the drawing itself that can be used so that if there has been any stretching or shrinking in the reproduction it will be the same for both the scale and the drawing. Further, as often occurs with critical details and measurements when dealing with listed buildings, drawings can be produced at 1:20 or even 1:10. That has not occurred here.
7. The original plans included an 'existing section' that showed the eaves on both the front and back of the house the same size (which is what one would expect). On the amended plan submitted with the appellant's final comments (which unfortunately has exactly the same plan number as the original plan) the 'existing section' showed the eaves at the rear to be almost non-existent. In the written representations it stated that the eaves on the rear of the house was the same as on the projecting two storey rear extension; on the original plan that was the same as the front and rear eaves on the original plan and it was still shown that way on the amended plan.
8. The statements and plans are, in my view, contradictory; it is not clear from the information provided whether or not the proposal satisfies the requirements of the GPDO (and would therefore be permitted development). Further, I agree with the Council that the amended plan does not show 200mm from the edge of the eaves to the proposed dormer. Even allowing for some inaccuracy in the reproduction of the plans at the scale that is submitted it is clearly not 200mm. As I stated earlier a much larger scale plan (either 1:20 or 1:10) is possibly necessary to show accurately what the existing measurements are and what are proposed.
9. For the reasons set out above I am not satisfied that the appellant has demonstrated that the proposed dormer satisfies all the relevant criteria and or conditions necessary for the proposed dormer to be 'permitted development' not requiring formal planning permission and I shall dismiss this appeal.
10. Turning to the second main issue – whether the proposal to erect the side wall of the dormer on the party wall is within the curtilage and can therefore be considered 'permitted development' – the Council asserted that the proposal involved development not within the curtilage of the property and it could not therefore be 'permitted development'. The parties both referred to several appeal decisions that had dealt with this question and both stated that there were no Court judgements that set out how this matter ought to be approached. Those decisions concerned appeals from 2001, 2009 and 2010 that decided that such development was within the curtilage and a decision

from 2016 that decided it was not. I am also aware of a decision from 2006 not referred to by the parties that decided that such development was not within the curtilage (APP/T5150/C/05/2004639).

11. Whilst there are decisions going both ways on this matter, it is clear that only the three that concluded that the development was/would be within the curtilage had examined court decisions to try to find any guidance on the matter. That is necessary as curtilage is not defined anywhere in the planning acts or the GPDO. I won't repeat the details of those court decisions here as both parties are well aware of the outcomes and the 2001 and 2009 decisions were similarly dealing with dormer extensions.
12. The inspector in the 2009 decision (APP/U5090/X/09/2108111) at paragraph 7 summed up the situation referring to the 2001 inspector's decision who had cited, in particular, *McAlpine v SSE [1995] 1 PLR 16* which decided that a curtilage comprised three defining characteristics. Firstly it occupied a small area around a building; secondly, it was intimately associated with that building and thirdly, it had to be regarded as one part of an enclosure with the house concerned.
13. Both inspectors agreed that where party walls are concerned, adjoining curtilages could, as *McAlpine* decided, overlap each other (in some situations one completely surrounds another). This was particularly relevant in a party wall situation where the result could be the collapse or partial collapse of both if the wall were removed. The party wall was such an integral part of the two dwellings there was no reason why their curtilages could not overlap because such small areas were involved. The inspector in the 2010 decision agreed with that and I see no reasons that would make me come to a different conclusion (APP/U5930/X/10/2132832). As with the 2010 inspector (at paragraph 6 of his decision) there is still the need for access rights to carry out such works which is covered by other legislation; any permission granted under the planning acts does not give anyone the right to carry out the approved development on land not in their ownership.

## Conclusions

14. Whilst I have decided that the development would be within the curtilage of the appeal property, the appeal still fails on the first issue as it is not clear at all from the information provided that the proposed development meets all the restrictions and conditions of Class B of the GPDO and I shall, therefore, dismiss this appeal.

***D E Morden***

INSPECTOR







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## Costs Decision

Site visit made on 24 May 2018

by **D E Morden MRTPI**

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

Decision date: 14 August 2018

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### **Costs application in relation to Appeal Ref: APP/Q1445/X/17/3176838 60 Lynton Street, Brighton, BN2 9XR**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Mr D Harrison for a full award of costs against Brighton and Hove City Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a certificate of lawful use or development for the addition of a dormer to the rear roof pitch and roof lights to the front roof pitch.

**Decision: The application for an award of costs is refused.**

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### **Reasoning**

1. The appellant's application and the Council's response were set out in full in writing at the appeal stage and there is, therefore, no reason to repeat them here. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
2. There is no Court judgement that deals with the question of party walls and whether development that straddles them completely is within or outside the curtilage. The appellant referred to three cases between 2001 and 2011 that went one way, the Council referred to a much more recent decision in 2016 that went the other way and, as I stated in the appeal decision, I am also aware of another appeal in 2006 that decided the same way as the 2016 decision.
3. The appellant referred to guidance and authority coming from the revised technical guidance for the GPDO three earlier decisions. Authority is not from the earlier decisions, it can only come from the Courts and whilst the revised technical guidance for the GPDO includes (as the appellant puts it) a working definition of curtilage, it does not in my view take the matter any further forward. That definition is referring to land rather than a building as such.
4. In the circumstances I do not think it was unreasonable for the Council to come to the conclusion it did regarding whether or not the development was within the curtilage of the dwelling house.
5. Turning to the question of the plans and the acceptance or not of the amended plans and consequent refusal of a second application, it is still not clear as is

evident from my decision, whether the development satisfies all the criteria and conditions in the GPDO and again it was not unreasonable for the Council to make the case that the development was not permitted by the GPDO.

**Conclusion**

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and I will dismiss the application.

***D E Morden***

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: 17 August 2018

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**Appeal Ref: APP/Q1445/W/17/3191374**

**Meadows, 18 Roedean Way, Brighton BN2 5RJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Pybus against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/02221, dated 30 June 2017, was refused by notice dated 21 September 2017.
  - The development proposed is the demolition of existing garages and creation of a new dwelling on land to the east of Meadows.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) has been published, which I have taken it into account in my decision. Both main parties have had the opportunity to comment on the implications for the appeal, and I am satisfied that no interested party has been prejudiced by my approach.

### Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

### Reasons

4. The pattern of development in this section of Roedean Way is distinctive for the spacious arrangement of large houses on large plots, with generally consistent building heights, frontages and front building lines. It has a broad grain of development with front gardens generally laid to lawn with shrubs, reflecting the expansive, green space opposite.
  5. In this context, the proposed subdivision would result in an uncharacteristically narrow plot for a narrow house which would lack the distinctive landscape characteristics shared by its neighbours. It would have a greater plot coverage than is typical in this section of Roedean Way, and its frontage would be substantially narrower than the others. It would fill much of the gap between the existing house and its neighbour, which contributes to the spacious character of this section. Planting in the front would be confined to narrow strips alongside the side boundaries, which would be at odds with the
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landscape character derived from the broader front gardens of the neighbouring houses.

6. The width of the house would be but a fraction of the width of the houses in this section, and the more vertical proportion of its street elevation would appear incongruous with the more horizontal proportions of its neighbours. It would be set substantially back from the prevailing front building line of the houses in this section. Its width and siting would be more akin to the garages of the houses in this section of the street, rather than the houses themselves.
7. I can see no harm from the height of the house given the heights of neighbouring roofs. The access ramp would rise before descending to basement level which would diminish any effect of a void in the street scene. There appeared to me to be no single style of building in this section, in which context the flat roof form and the large and small openings of varying proportions of the house and its use of white render and zinc would not be at odds.
8. Notwithstanding this, in this spatial context, the proposed development would lack the defining characteristics of the houses in this section, the distinctive, and spacious pattern of development of which it would disrupt. It would not hold its own spatially as a house, crowding its confined boundaries.
9. I have taken into account the existing built footprint over the appeal site, however, it appears as a single storey extension to the house rather than as an individual house of 4-storeys. The dimensions of the gaps between the houses on Roedean Way vary, however, where the gaps tighten this appears to be as a result of side extensions or ancillary buildings rather than additional dwellings. No 17 and other houses in this section have a 2-storey structure between the house and its boundary; however, they appear as subservient extensions of the houses rather than as an additional house.
10. I acknowledge the appellant's and Council's density calculations. However, the aspects of this proposal which I have found incompatible with the surrounding pattern of development concern the physical effect of development. While the density of this scheme may fall within the range suggested for the development of the miniature golf course nearby, that is a largely undeveloped site, whereas this site is part of an established street scene, with a distinctive character. While paragraph 127 of the Framework says that decisions should not prevent appropriate change such as increased densities, this should be sympathetic to local character in the built environment and landscape setting.
11. I saw the smaller, older cottages to the west. However, these are a substantial distance from this site, and form a terrace which has a distinctly different pattern of development. The houses on Roedean Path have little direct frontage to the street, whereas this site is part of a long row of houses facing directly towards the street. The consented house there has a quite different context to this site. These examples do not change the different context of the appeal proposal which is firmly in the more modern section of development in this area. While the proposal would enable the occupiers to move to a smaller house, there is no substantive evidence that this could not be achieved without the proposed development.
12. The appellant considers that Policy CP12 of the Brighton & Hove City Plan Part One 2016 (CP) does not relate to plot width. However, part 2 of the policy

indicates that development will be expected to establish a strong sense of place by respecting the diverse character and urban grain of the city's identified neighbourhoods. It defines urban grain as the general layout, pattern and footprint of buildings and streets as viewed overhead in plan form. In my view, plot width is encompassed by that definition.

13. While the Council's Urban Design Framework may not be adopted, CP policy CP12 sets out clear design expectations. I acknowledge that the proposal would meet the other expectations of the policy; however, it would be at odds with the distinctive pattern of development in the area and would result in substantial harm to its character and appearance. This places it in conflict with part 2 of CP policy CP12. The development would also run against the design advice in the Planning Practice Guidance<sup>1</sup> which advises that development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development.

### **Planning balance**

14. The proposed development would provide a modest, social benefit of one additional house to local housing supply. It would bring economic benefits too, 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 public transport which would have environmental advantages. However, it would result in substantial harm to the character and appearance of the area, which would place it in clear conflict with the development plan, and the environmental objective of sustainable development as set out in paragraph 8 of the Framework.
15. The appellants have referred to a recent appeal decision<sup>2</sup> in which the Inspector concluded that the Council was unable to demonstrate a 5-year supply of housing land, indicating a shortfall of at least 200 dwellings, which is not refuted by the Council. However, even if I were to conclude that there is a shortfall in the 5-year supply of deliverable housing sites of this scale, and that the policies which are most important for determining the application are out-of-date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

### **Conclusion**

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

*Patrick Whelan*

INSPECTOR

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<sup>1</sup> Planning Practice Guidance, para 007, ID 26-007-20140306

<sup>2</sup> Appeal Ref: APP/Q1445/W/17/3177606





## Appeal Decision

Site visit made on 14 August 2018

**by Lynne Evans BA MA MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 August 2018**

**Appeal Ref: APP/Q1445/D/18/3204233**

**16 Hove Park Road, Hove BN3 6LA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Koczerzat against the decision of Brighton & Hove City Council.
- The application Ref: BH2018/00863 dated 16 March 2018, was refused by notice dated 8 May 2018.
- The development proposed is single storey rear extension, first floor extension and remodelling of roof to form additional accommodation with associated works.

### Decision

1. The appeal is allowed and planning permission is granted for single storey rear extension, first floor extension and remodelling of roof to form additional accommodation with associated works at 16 Hove Park Road, Hove BN3 6LA in accordance with the terms of the application, Ref BH2018/00863 dated 16 March 2018, 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, block plan, 170405 P1 Rev B, 170405 P2 Rev B, 170405 P3 Rev B, 170405 P4 Rev B, 170405 P5 Rev B, 170405 P6 Rev B, 170405 P7 rev B, 170405 P8 Rev B, and 170405 P9 Rev B.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Procedural Matters

2. The revised National Planning Policy Framework (Framework 2018) came into force on 24 July 2018 and from that date policies within the Framework 2018 are material considerations which should be taken into account in decision making. Although the Council's reasons for refusal did not specifically refer to the National Planning Policy Framework 2012 extant at the time of the decision, both the Appellant and the Council have referred to it. From reading all the information before me from the Appellant and the Council, I am satisfied that the revised Framework 2018 carries forward the main policy areas from the earlier Framework, as relevant to this appeal.

## **Main Issues**

3. The main issues in this appeal are:
  - a) the effect of the proposal on the character and appearance of the existing property and on the local area,
  - b) The effect of the proposal on the living conditions of the adjoining neighbours at No 18 with particular regard to effect on outlook.

## **Reasons**

### ***Issue a) Character and appearance***

4. The appeal property is a detached house in Hove Park Road within a predominantly residential area of mainly detached and some semi-detached family sized dwellings. The appeal property and many of the surrounding dwellings substantially fill the width of their plots, with limited spacing between properties.
5. The proposed scheme would extend the ground floor living accommodation to the rear and extend at first floor as well as make amendments to the roof to provide accommodation at second floor level. From the front, the lower section of existing roof would be raised to the main ridge height together with a barn hip. I consider that this proposed minor change to the roof form would not materially affect the character or appearance of the property and furthermore, would maintain the existing spacing, in street scene views, with the adjoining dwelling at No 18. In addition, a roof light would be introduced and there would be some fenestration changes with the introduction of garage doors in place of an existing window. I do not consider that these minor changes would materially affect the character or appearance of the property and the Council raised no particular concerns regarding these specific changes.
6. At the rear, the roof slope would be extended further towards No 18 but I agree with the Appellant that, from the consideration of the character and appearance of the property, this would introduce a more unified roof form, compared with the current arrangement. The existing two dormers on the main roof slope would be replaced with larger rear dormers. However, they would remain set in from the edges of the roof slope and set down from the main ridge, and therefore would appear subservient in form to the main dwelling. Given their siting and scale I do not consider that they would appear out of proportion with the main form of the existing house but would present a transition in scale from the extended ground floor accommodation, whilst keeping the windows aligned with the proposed fenestration below.
7. The Council raised a specific concern relating to the extent of cladding proposed, which appears to have been the result of an email exchange with the Appellant during the application stage when it was advised that the rear dormer cheeks would be clad in plain clay tiling. I agree with the Appellant that the use of the term 'cladding' in the Council's reason for refusal is confusing, and from the Officer's report I understand that the concern relates to the extent of plain clay tiling. The application forms refer to brick, painted render and tile hanging. Materials are not specified on the plans. However, the palette of proposed materials is already found on the existing building and is also typical of the materials found in the local area. They would therefore, in my view, be suitable for the finished appearance of the property and the rear



dormers. I see no planning justification to impose a specific condition to require further approval of the materials, beyond the standard condition which requires the materials to match the existing materials on the existing house.

8. I am therefore satisfied that the proposed development would respect the character and appearance of the existing dwelling and of the local area. There would be no conflict with Policy QD14 of the Brighton & Hove Local Plan (Local Plan) as well as the Framework 2018, both of which seek a high quality of design which respects the local context.

### ***Issue b) Living Conditions***

9. The adjoining property at No 18 Hove Park Road is set at a slightly lower level to the appeal property, reflecting the natural slope of the land. It has a patio area leading out from the rooms at the rear across the rear of the property with a raised area in the corner adjoining the common boundary with the appeal property. The neighbouring residents would be aware of the roof changes which would be visible from within their rear garden area. However, given the proposed slope of the roof and the remaining outlook from the patio area over the rear garden and beyond, I am satisfied that the proposal would not be over dominant or create an enclosing effect and would therefore not materially harm their living conditions, particularly from their outside amenity area. Although not specifically raised by the Council, I also consider that there would be no harm in terms of the outlook from the ground and first floor rooms closest to the common boundary given the proposed form of the roof and the remaining outlook available.
10. I am therefore satisfied that the proposed development would not materially harm the living conditions of the adjoining neighbours at No 18 with particular regard to loss of outlook. There would be no conflict with Policy QD27 of the Local Plan as well as the Framework 2018, both of which seek to protect the amenities of existing and future residents.
11. Although not raised by the Council, I am also satisfied that there would be no harm in terms of overlooking and loss of privacy, nor any impact on daylight given the relationship between the appeal dwelling and neighbouring properties in terms of existing and proposed siting, orientation and fenestration arrangement.

### **Conditions and Conclusion**

12. In terms of conditions, I agree with the standard conditions proposed by the Council. I have already addressed the approach to materials and confirm that matching materials with the existing dwelling are required in the interests of protecting the character and appearance of the existing property and of the local area, but that it would not be necessary to seek further details to be submitted. I also agree that a condition to list the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.
13. The Council has recommended a condition to require further details to be submitted of the boundary treatments because of the proposed raised terrace. Although the proposed terrace would extend further into the rear garden than the existing, given the existing raised terrace and the boundary treatments on either side as well as the form of the terrace as proposed, I do not consider

that such a condition is necessary to protect the amenities of the neighbours on either side.

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

*L J Evans*

INSPECTOR




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## Appeal Decision

Site visit made on 14 August 2018

**by Lynne Evans BA MA MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 August 2018**

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**Appeal Ref: APP/Q1445/D/18/3205113**

**43 Surrey Street, Brighton BN1 3PB**

- 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 Greg Ford against the decision of Brighton & Hove City Council.
  - The application Ref: BH2018/00131 dated 12 January 2018, was refused by notice dated 11 April 2018.
  - The development is described as retrospective replacement of front elevation windows in a conservation area.
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### Decision

1. The appeal is dismissed.

### Preliminary Issues

2. The works had been undertaken as of the date of the application. Accordingly, I have therefore treated the application as one made under Section 73A of the Town and Country Planning Act for development as originally carried out, namely the installation of replacement UPVC windows to the front elevation.
3. I am advised by the Council that the property and wider area is covered by an Article 4 Direction which requires planning permission prior to altering windows.
4. The revised National Planning Policy Framework (Framework 2018) came into force on 24 July 2018 and from that date policies within the Framework 2018 are material considerations which should be taken into account in decision making. Although the Council's reason for refusal did not specifically refer to the National Planning Policy Framework 2012 extant at the time of the decision, the Council referred to it in the Officer's report. From reading all the information before me from the Appellant and the Council, I am satisfied that the revised Framework 2018 carries forward the main policy areas from the earlier Framework, as relevant to this appeal.

### Main Issue

5. The main issue in this appeal is the effect of the replacement UPVC windows on the front elevation of the appeal property on the character and appearance of the existing property and on the designated heritage asset of the West Hill Conservation Area.

## Reasons

6. The appeal property is a modest, mid-terrace, bow fronted property in Surrey Street, to the south west of the main railway station and within the West Hill Conservation Area. It would appear from evidence provided by both the Appellant and the Council that the previous windows were traditional sash windows to the front elevation.
7. The West Hill Conservation Area includes Brighton Station and the predominantly residential streets, to the west and south west of the station, interspersed with some commercial uses in the streets, such as Surrey Street, closer to the station. The character of the streets varies from the smaller dwellings in streets such as Surrey Street to larger properties further away from the station. The properties appear to date from around the mid nineteenth century onwards and most are rendered. Notwithstanding a range of subsequent alterations including a variety of replacement windows, the cohesiveness of the uniform design of most of the individual properties in Surrey Street remains part of its character and appearance and the contribution it makes to the significance of the designated heritage asset of the Conservation Area.
8. In respect of the appeal property, the existing window openings do not appear to have been altered. However, the frames to the UPVC windows are much thicker than the traditional wooden sashes and the thickness of the frames are compounded by their opening arrangements and the visible trickle vents. The UPVC windows are visually intrusive and detract from the traditional character and appearance of the Victorian property. Given the harm I have concluded to the character and appearance of the property and my finding that the individual properties within as well as Surrey Street as a whole, make a positive contribution to the significance of the Conservation Area, it is also my view that the replacement windows harm and do not preserve the character and appearance of the Conservation Area.
9. I therefore conclude that the replacement UPVC windows harm the character and appearance of the existing property and do not preserve the character and appearance of the West Hill Conservation Area. This harm conflicts with Policy HE6 of the Brighton & Hove Local Plan as well as the Framework 2018, and in particular Section 16 *Conserving and enhancing the historic environment*. The Framework and development plan policy seek to protect the significance of designated heritage assets including conservation areas.
10. I understand that the existing windows were rotten and required to be replaced, and that the replacement are more energy efficient, but there is no evidence before me to suggest that they could not have been replaced in a more sympathetic manner and more in keeping with the previous windows. The Appellant has drawn my attention to other replacement windows, in a variety of materials, in the local area and in particular in the same street. Each proposal and development must be judged on its individual merits and the existence of other non-traditional windows does not persuade me that more should be permitted, given the harm I have concluded. Furthermore, and although the detailed information has not been provided, I noted from my site visit that there also appear to be examples of properties where recent refurbishment has retained or reinstated more traditional and characteristic sash windows.

11. Paragraph 196 of the Framework sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including where appropriate securing its optimum viable use. No public benefits have been advanced, although the greater energy efficiency secured with the replacement windows may be considered as a modest economic and environmental benefit. Whilst the harm to the designated heritage asset of the Conservation Area would, in my view, be less than substantial, I do not consider that there are public benefits sufficient to outweigh that harm.
12. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

*L J Evans*

INSPECTOR



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## Appeal Decision

Site visit made on 14 August 2018

**by Lynne Evans BA MA MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 August 2018**

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**Appeal Ref: APP/Q1445/D/18/3204370**

**1 Eskbank Avenue, Brighton BN1 8SL**

- 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 Justin Tait against the decision of Brighton & Hove City Council.
  - The application Ref: BH2017/04028 dated 6 December 2017, was refused by notice dated 17 April 2018.
  - The development proposed is hip to gable end roof extension with front and rear dormer windows. Single storey flat roof rear extension.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The revised National Planning Policy Framework (Framework 2018) came into force on 24 July 2018 and from that date policies within the Framework 2018 are material considerations which should be taken into account in decision making. Although the Council's reason for refusal did not specifically refer to the National Planning Policy Framework 2012 extant at the time of the decision, the Council has referred to it in its officer's report. From reading all the information before me from the Appellant and the Council, I am satisfied that the revised Framework 2018 carries forward the main policy areas from the earlier Framework, as relevant to this appeal.

### Main Issue

3. The proposal includes for a hip to gable roof alteration with installation of front and rear dormers as well as a single storey rear extension. The Council's decision notice only refers to the proposed front dormer and the Officer's report indicates that the other parts of the proposal were not recommended for refusal. From my site visit and all the information before me I have no reason to take a different view. Accordingly, the main issue in this appeal is the effect of the proposed front dormer on the character and appearance of the existing property and on the street scene.

### Reasons

4. The appeal property is a modest, semi-detached bungalow on the west side of Eskbank Avenue, within a predominantly residential area with mainly semi-detached bungalows and some houses. I have noted that the Council does not

have records of each of the front dormers in the vicinity of the appeal property. However, I agree with the Appellant that dormers are a feature in the immediate and wider local area, including a variety of front dormers. Although the size of the individual dormers varies, most of these are set within the hipped roof forms, albeit some with alterations, and therefore do not extend across the full width of the property.

5. However, and although set in from the roof edges, the width of the proposed dormer across the extended roof width of the gable roof would result in a very large and bulky roof dormer which would be a visually dominant feature and would result in a 'top heavy' addition to the property. This would harm the character and appearance of the property. Gives its bulk and size and visual dominance it would also harm the street scene.
6. I therefore conclude that the proposed front dormer would harm the character and appearance of the existing property and the street scene. It would therefore conflict with Policy QD14 of the Brighton & Hove Local Plan and Supplementary Planning Document 12 *Design Guide for Extensions and Alterations* as well as the Framework 2018, all of which seek a high quality of design which respects the local context.
7. I have noted the comments raised by the Appellant regarding the application process, but these are matters to be discussed with the Council, and my assessment is based on the planning merits of the case before me.
8. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*L J Evans*

INSPECTOR