




Brighton & Hove  
City Council

# Planning Committee

Title:	<b>Planning Committee</b>
Date:	<b>6 March 2019</b>
Time:	<b>2.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Inkpin-Leissner, Littman, Miller, Moonan, Morgan and O'Quinn  <b>Co-opted Members:</b> Conservation Advisory Group Representative
Contact:	<b>Penny Jennings</b> Democratic Services Officer 01273 291065 planning.committee@brighton-hove.gov.uk

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## AGENDA

### 107 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.*

### 108 MINUTES OF THE PREVIOUS MEETING

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Minutes of the meeting held on 6 February 2019 (copy attached)

### 109 CHAIR'S COMMUNICATIONS

### 110 PUBLIC QUESTIONS

19 - 20

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**Written Questions:** to receive any questions submitted by the due date of 12 noon on 28 February 2019.

**Note :** One question relating to Blue Plaques located in Grand Avenue has been notified in advance (copy attached)

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

### 112 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.*

#### CALLOVER

*The Democratic Services Officer will read out each Planning Application in turn and on any applications which are not called it will be assumed that the recommendation(s) set out in the officer report are agreed. Any major applications or those on which there are speakers are automatically reserved for discussion*

#### MAJOR APPLICATIONS

- A BH2018/01738- Land to rear of Lyon Close, Hove-Full Planning 21 - 88**
- Demolition of existing buildings (B8) to facilitate a mixed use development comprising of the erection of 4no buildings between 5 and 8 storeys to provide 152 dwellings (C3), 2 live/work units (sui generis) and 697sqm of office accommodation (B1) with associated car and cycle parking, landscaping and other related facilities.  
**RECOMMENDATION – MINDED TO GRANT**  
*Ward Affected: Goldsmid*
- B BH2017/03676-Land at Varndean College, Surrenden Road, Brighton -Outline Application 89 - 120**
- Outline application with some matters reserved for erection of 10no residential units (C3), comprising 1no two bedroom, 6no three bedroom and 3no four bedroom houses, with new access from Surrenden Road, associated car and cycle parking and approval of reserved matters for access and layout.  
**RECOMMENDATION – MINDED TO GRANT**  
*Ward Affected:Withdean*
- C BH2018/02583-Westerman Complex, School Road, Hove - Removal or Variation of Condition 121 - 152**
- Application for variation of condition 1 of BH2016/02535 (Outline application for Demolition of existing mixed use buildings and

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erection of 104 dwellings (C3) and 572 Sqm of office space (B1) and approval of reserved matters for access, layout and scale.) to allow amendments to the approved drawings including alterations to the car parking layout and internal layouts. Variation of condition 4 regarding the layout of the units to provide one additional one-bed unit, and one less two-bed unit and condition 6 regarding the maximum building heights to state that other than lift overruns the maximum buildings heights shall be as stated in the condition.

### **RECOMMENDATION – GRANT**

*Ward Affected: Wish*

- D BH2018/02561-Westerman Complex, School Road, Hove- Reserved Matters 153 - 172**

Erection of 3no residential dwellings comprising of 2no four bedroom dwellings and 1no three bedroom dwelling incorporating parking, landscaping and associated works.

### **RECOMMENDATION - MINDED TO APPROVE**

*Ward Affected: Wish*

## MINOR APPLICATIONS

- E BH2018/01336, Land at Rear of 1-45 Wanderdown Road, Brighton -Full Planning 173 - 220**

Erection of 3no residential dwellings comprising of 2no four bedroom dwellings and 1no three bedroom dwelling incorporating parking, landscaping and associated works.

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

*Ward Affected – Rottingdean Coastal*

- F BH2017/04102-Varndean College, Surrenden Road, Brighton - Full Planning 221 - 240**

Installation of an artificial turf pitch with 4.5 metre perimeter fencing and installation of 8no. 15 metre floodlights, alterations to existing adjacent grass playing pitch.

### **RECOMMENDATION – GRANT**

*Ward Affected: Withdean*

- G BH2018/02558-106, 108 & 110 Downs Valley Road, Woodingdean, Brighton-Full Planning 241 - 258**

Construction of four detached family houses (C3) together with associated parking, cycle parking and landscaping.

### **RECOMMENDATION – REFUSE**

*Ward Affected: Woodingdean*

- H BH2018/03780-38A Upper Gardner Street, Brighton -Full Planning 259 - 268**

Demolition of existing boundary wall and reconstruction of replacement wall.



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### RECOMMENDATION – GRANT

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

- I BH2018/01172-31 Ridgeside Avenue, Brighton-Full Planning 269 - 284**  
Erection of 1no three bedroom detached house.  
**RECOMMENDATION – GRANT**  
*Ward Affected: Patcham*
- J BH2018/02805-23 Maldon Road, Brighton-Full Planning 285 - 298**  
Demolition of existing bungalow & erection of 2no three storey four bedroom dwellings (C3).  
**RECOMMENDATION – GRANT**  
*Ward Affected: Withdean*
- K BH2018/02120-238 Elm Grove, Brighton -Full Planning 299 - 314**  
Demolition of existing garage & erection of 1no. one bedroom single storey dwelling (C3).  
**RECOMMENDATION – WOULD HAVE GRANTED – APPEAL AGAINST NON DETERMINATION**  
*Ward Affected: Hanover & Elm Grove*
- L BH2018/03479-2 Belle Vue Cottages, Brighton- Householder Planning Consent 315 - 324**  
Erection of two storey side extension, single storey rear extension, revised fenestration, roof extension incorporating rear dormer and front and rear rooflights.  
**RECOMMENDATION – GRANT**  
*Ward Affected: Moulsecoomb & Bevendean*
- M BH2018/03198-Lanterns, The Green, Rottingdean, Brighton- Householder Planning Consent 325 - 336**  
Conversion of attic with dormers to front roof slope and roof lights to rear.  
**RECOMMENDATION – REFUSE**  
*Ward Affected: Rottingdean Coastal*
- N BH2018/01937- 15 Osmond Gardens, Hove-Full Planning 337 - 348**  
Change of Use from care home (C2) to 8no bedroom large house in multiple occupation. (Sui generis)  
**RECOMMENDATION – GRANT**  
*Ward Affected: Goldsmid*
- O BH2018/02532-95 Heath Hill Avenue, Brighton-Full Planning 349 - 362**  
Change of use from single dwelling (C3) to six bedroom small house in multiple occupation (C4).  
**RECOMMENDATION – GRANT**

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*Ward Affected: Moulsecoomb & Bevendean*

### **113 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**

- |  |                  |
|--|------------------|
| <b>114 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS</b> | <b>363 - 366</b> |
| (copy attached).   |                  |
| <b>115 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE</b> | <b>367 - 370</b> |
| (copy attached).   |                  |
| <b>116 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES</b>         | <b>371 - 372</b> |
| (copy attached).   |                  |
| <b>117 APPEAL DECISIONS</b>  | <b>373 - 460</b> |
| (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).

Date of Publication - Tuesday, 26 February 2019



**BRIGHTON & HOVE CITY COUNCIL****PLANNING COMMITTEE****2.00pm 6 FEBRUARY 2019****COUNCIL CHAMBER, HOVE TOWN HALL****MINUTES**

**Present:** Councillors Cattell (Chair), Gilbey (Deputy Chair), C Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bennett, Hyde, Littman, Miller, Morgan, O'Quinn and Robins

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

**Officers in attendance:** Paul Vidler, Planning Manager, Stewart Glassar, Principal Planning Officer, Eimear Murphy, Senior Planning Officer, David Farnham, Development and Transport Assessment Manager, Hilary Woodward, Senior Lawyer and Penny Jennings, Democratic Services Officer

**PART ONE****95 PROCEDURAL BUSINESS****95a Declarations of substitutes**

95.1 Councillor Robins declared that he was in attendance in substitution for Councillor Moonan. Councillor Inkipin-Leissner was absent from the meeting.

**95b Declarations of interests**

95.2 The Chair, Councillor Cattell noted that Members had received a number of e. mails in respect of Application C, BH2018/01336, Land at rear of 1-45 Wanderdown Road, Brighton.

95.3 Councillor Littman referred to Application B, BH2018/02536, 25 Preston Park Avenue, Brighton stating that he lived near to the application site and had been approached by neighbours for general advice in relation to the planning process. He had not expressed an opinion in respect of the application, remained of a neutral mind and would therefore remain present during consideration and determination of the

application. Councillor Gilbey also referred to Application B, BH2018/02536, 25 Preston Park Avenue, Brighton, stating that she owned a property located in Preston Park Avenue, however, she was of a neutral mind in respect of this application and would therefore remain present during when it was considered and determined.

- 95.4 Councillors Hyde and Miller made reference to Application C, Land at rear of 1 – 45 Wanderdown Road, Brighton. The application site was located in their ward and in consequence they had received a number of e mails in respect of it. They had not responded to them remained of a neutral mind and would therefore remain present at the meeting when it was considered and determined.

#### **95c Exclusion of the press and public**

- 95.5 In accordance with Section 100A of the Local Government Act 1972 (“the Act”), the Planning Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

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

#### **95d Use of mobile phones and tablets**

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

### **96 MINUTES OF PREVIOUS MEETINGS**

#### **96a Minutes of the Meeting, 5 December 2018**

- 96.1 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 5 December 2018 as a correct record.

#### **96b Minutes of the Meeting, 9 January 2019**

- 96.2 **RESOLVED** – That the Chair be authorised to sign the minutes of the meeting held on 9 January 2019 as a correct record.

### **97 CHAIR'S COMMUNICATIONS**

- 97.1 There were none.

### **98 PUBLIC QUESTIONS**

- 98.1 There were none.

### **99 TO AGREE THOSE APPLICATIONS TO BE THE SUBJECT OF SITE VISITS**

99.1 There were none.

**100 CALLOVER**

100.1 The Democratic Services Officer, read out items 101 A – E and all of the items appearing on the agenda were called for discussion. It was noted that Major applications and any on which there were speakers were automatically reserved for discussion.

100.2 The Chair, Councillor Cattell explained that this measure intended to expedite the business of the Committee and to avoid the necessity of those who had an interest in applications on which there were no speakers spending hours waiting for the Committee to get to their application(s). She wished to reassure the public however, that in any instances where an application was not called for discussion members had read the officer report and any supporting information in advance of the meeting. However, having given the officer recommendation(s) their due consideration they had no questions nor required further clarification on any aspect of the application before moving to their decision.

100.3 **RESOLVED** – That the position be noted.

**101 TO CONSIDER AND DETERMINE PLANNING APPLICATIONS**

**MAJOR APPLICATIONS**

**A BH2018/02854-41 and 42 Park Wall Farm Cottages, Station Approach, Falmer, Brighton -Full Planning**

Demolition of existing houses and erection of a 4 storey student accommodation building with 71no bed spaces and associated access arrangements, cycle parking, car parking and landscaping.

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

**Officer Presentation**

(2) The Senior Planning Officer, Eimear Murphy, introduced the application and gave a detailed presentation by reference to site plans and elevational drawings detailing the proposed scheme. The site was located within the development boundary for the city, to the south side of the A27 adjacent to Falmer Station and was positioned between the A27 dual carriageway and the railway line with access from Station Approach, a partly private road which also served Falmer Railway Station and the station carpark. Beyond this and to the south was the University of Brighton Falmer Campus. The University of Sussex campus was located to the north of the A27. The station was located to the west, with a stadium car park to the east and a small number of residential properties located towards the west on the opposite side of Station Approach, beyond which was Stanmer Court which was purpose-built student accommodation. The application site comprised a pair of unoccupied boarded up semi-detached flint cottages which were positioned towards the back of the site with the

main gardens to the north and access to the east side of Station Approach. Apart from the boundary to the east, the remaining boundaries were defined by the existing vegetation and trees.

- (3) It was noted that the main considerations in determining the application relate to the principle of the development including the loss of the two existing units of accommodation, the proposed provision of student accommodation; the impact on the street scene, character and appearance of the area which included the setting of the South Downs National Park and Stanmer Village Conservation Area; amenity for existing and new occupants; sustainability and sustainable transport, traffic generation, parking and pedestrian safety; landscaping; ecology/biodiversity and contribution to other objectives of the development plan.
- (4) Given the close proximity of the site to the two university campuses its sustainable location and the provision of 71 student bed spaces in a purpose built building it was considered that the proposed form of development would not only add to the much needed stock of accommodation for this sector but would also reduce pressure on the existing family housing stock which often become small HMOs. Since the withdrawal of the previous application the footprint, scale, mass and appearance of the proposed scheme had been amended to produce a building which respected the setting of the SDNP in part by retaining planting to the boundary with the verge to the A27 including 2 mature trees and hedgerows. A revised design had been submitted and the material proposed would improve its appearance and its mass was alleviated by the staggering of windows to sections of the main road facing elevations. It was also considered that and in conjunction with appropriate conditions and Travel and Management plans that the building and its use for student accommodation would not cause detriment to the immediate area, the amenities of existing dwellings, traffic flow or pedestrian movement. As there was a presumption in favour of sustainable development the proposal accorded with the City Plan Part 1 and the Brighton & Hove Local Plan 2005, represents sustainable development and approval was therefore recommended.

### **Public Speakers**

- (5) Councillor Yates spoke in his capacity as a Local Ward Councillor setting out his objections in relation to the scheme and those of neighbouring objectors.
- (6) It was noted that both the applicant and the agent both based in Manchester and who had been contacted at short notice had advised that regrettably they were unable to attend. The Chair had agreed therefore that the Democratic Services Officer, Penny Jennings, would read out a statement provided by them on their behalf in support of their application. This was done.

### **Questions of Officers**

- (7) Councillor Littman referred to the concerns of the arboriculture team and sought clarification regarding protection to be afforded to the trees on site, particularly in relation to the Wych Elm, sycamore tree(s) and to the hedgerow group in the light of them. It was explained that updated information had been provided and that the proposed pre-commencement and pre-occupation conditions 9, 11 and 12.were intended to address



those points. Councillor Littman asked for confirmation that these conditions were considered to be sufficiently robust.

- (8) Councillor Mac Cafferty referred to the lighting to be provided on-site seeking confirmation that there would not be any detrimental light spillage in view of its close proximity to the national park. In respect of the proposed green wall assurances were sought that planting to this would be hardy as in other locations where this had been used in sheltered or north facing locations this had not survived. Also, regarding measures to be put into place to address additional traffic associated with the nearby football ground on match days. As to the duration of the contribution towards bus travel, in his view in order to be successful it needed to be in place for a reasonable amount of time.
- (9) Councillor Mac Cafferty also sought detail of the rationale for the decision by English Heritage not to list the buildings on site and how the grounds for the site to be considered as an exception under HO8 had been met.
- (10) Councillor Miller also referred to the support provided by Planning Policy which set out that cumulatively it was considered that an exception to HO8 was justified in this instance.
- (11) Whilst noting the considerations made in respect of HO8 Councillor Gilbey asked whether the fact that permission had been given for other student accommodation relatively close to the site had been taken account of. Also, to the access/egress arrangements and to the fact that only one disabled parking space was proposed on site.
- (12) Councillor Littman stated that notwithstanding what had been said he was struggling to see on what basis an exception to policy HO8 could be justified. It was explained that the scheme had been considered in the context of planning policy overall.

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

- (13) Councillor Robins considered that the proposed scheme was of poor design and stated that he would not support it.
- (14) Councillor C Theobald stated that whilst regretting the loss of the existing cottages and their replacement with buildings of a "boring" design she recognised that this provision would free up family sized homes which were increasingly being used as HMOs for students.
- (15) Councillor Miller concurred in that view considering that whilst far from perfect the proposed scheme did represent good use of the site and could result in less HMOs being used as student accommodation in the in the city centre.
- (16) Councillor Hyde agreed stating that provided the red brick used was of a muted tone she considered that the proposed scheme would be acceptable. Councillor Hyde also considered it was important that adequate measures for soundproofing were provided for the windows.

- (17) Councillor Morgan considered that as the existing buildings on site were in a derelict condition their loss would be acceptable. This provision in close proximity to the University campus was welcome.
- (18) Councillor Mac Cafferty was of the view that loss of two handsome knapped flint buildings was to be regretted as was the fact that these buildings had not been listed either by English Heritage or locally. If approval was given it was important that the amended s106 terms and conditions set out in the Late/Additional Representations List were adhered to and that samples of materials particularly those to be used for external finishes be brought back to Members for approval. Councillor MacCafferty was also of the view that full strong measures to mitigate any potential for flooding due to surface water were necessary.
- (19) The Chair, Councillor Cattell, stated that in her view the criteria for the buildings on site to be listed had not been met as the site was in close proximity to two university campuses it would ease pressure on existing family housing stock elsewhere in the city and she supported the officer recommendation.
- (20) A vote was taken and the 11 Members who were present when the vote was taken voted by a vote of 9 to 2 that minded to grant planning permission be given.

101.1 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 agreement on the Heads of Terms set out in the report and to the Conditions and Informatives also set out in the report and in the Late/Additional Representations List and to the additional conditions and informative set out below **SAVE THAT** should the s106 Planning Obligation not be completed on or before the 29th May 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10 of the report.

**Additional Conditions:**

Add additional conditions agreed by Committee requiring details of soundproofing to windows and connection to district heating network.

**Additional Informative:**

Condition 4 requiring the approval of samples of external materials will be determined by the Head of Planning following consultation with Members attending the Planning Committee Chair's meeting.

**MINOR APPLICATIONS**

**B BH2018/02536-25 Preston Park Avenue, Brighton- Full Planning**

Demolition of existing garage and side extension, and erection of three storey rear extension. Conversion of existing house into 6no flats (C3). Erection of 2no two storey dwelling houses (C3) in rear garden with associated landscaping.

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

### **Officer Presentation**

- (2) The Principal Planning Officer, Stewart Glassar, introduced the application and gave a detailed presentation by reference to site plans, photographs and elevational drawings detailing the proposed scheme. It was noted that the application related to a three storey detached property located to the east of Preston Park Avenue which was currently occupied as a single dwelling which had been subject to a number of ad hoc alterations including dormer windows, single storey rear extensions and projecting gables. Several sections of the property were currently in a poor state of repair. The existing building was of traditional design with ornate detailing the front elevation of which remained largely intact and was set within a generous plot. Attention was drawn to the fact that an amended description of the site and additional proposed conditions and informatives were set out in the Late/Additional Representations List.
- (3) It was noted that the main considerations in determining the application related to the principle of development on site, the affordable housing provision, the visual impact of the proposal on the site and surrounding conservation area, the impact on neighbouring amenity, the standard of accommodation provided for future occupiers, sustainability and sustainable transport impacts. Whilst the scale of development proposed was significantly intensified in comparison to the existing use and the development would be noticeable by immediate neighbours, this was considered acceptable. Overall development would provide a net gain of 7 residential units including provision of a policy compliant affordable housing contribution. Furthermore the proposal would ensure the retention of much of the character of the existing building whilst upgrading and refurbishing the interior. Approval was therefore recommended.

### **Public Speakers**

- (4) Mr Mathews spoke in his capacity as a neighbouring objector setting out his objections in respect of the proposed scheme. The proposed scheme would have a detrimental impact on the amenity of the neighbouring residential blocks, would result in overshadowing and represented overdevelopment of the site and would have a detrimental impact on the conservation area; the existing "green lung" would be lost and any wildlife on site would be compromised. It would also result in additional noise, traffic and parking. It was considered that some of the information provided was misleading/incorrect and that sufficient account had not taken of the topography of the site.
- (5) Mr Evans, the applicant spoke in support of his application. He explained that the property had been in his family for more than 100 years and notwithstanding that its character and features had been retained the main building was in desperate need of renovation. The proposed scheme had sought to address any objections raised and to utilise the existing plot without detriment to neighbouring development by maintaining a good degree of separation.

### **Questions of Officers**

- (6) Mr Gowans was in attendance representing CAG and requested that he be permitted to display photographs taken on their behalf showing views into the site from the street. The Chair, sought the views of Committee and it was agreed for these photographs to be shown.
- (7) Councillor Littman referred to photographs displayed by CAG seeking confirmation regarding where they had been taken from. It was explained that they had been taken from the public footway outside the site. He considered that whilst the new development might be visible obliquely in long views, that was the case in respect of a number of other sites in the vicinity where there had been back land development.
- (8) Councillor O'Quinn explained that whilst attending the site visit the previous afternoon she had observed that the main building had stained glass windows and a feature balcony asking whether it was proposed that these would be retained. It was confirmed that they would.
- (9) Councillor Miller referred to the parking to be provided in front of the existing building seeking confirmation as to whether it would be provided for use by occupiers of the flats in the existing house following conversion or the dwelling houses to be provided to the rear. It was explained that this had yet to be determined but that it was envisaged it would be provided for occupants of the flats.
- (10) Councillor C Theobald asked to see elevational drawings showing the roof heights of the proposed properties to the rear, also sectional drawings showing the changes in level across the site and its typography in relation to neighbouring sites.
- (11) Councillor Hyde asked regarding measures to protect the flint wall separating the site from its neighbours. It was confirmed that the wall referred to was in fact bungaroosh in its construction and would be retained.
- (12) Councillor Miller referred to fact that chalk waste would be generated in consequence as a result of the excavation works on site considering that if permission was granted arrangements needed to be put into place in relation to removal of any waste.
- (13) Councillor Littman sought clarification regarding the elements of the existing wall to be retained at the front of the site following removal of the existing garage and distances between the site and the neighbouring development at Whistler Court and other neighbouring development.

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

- (14) Councillor C Theobald stated that she welcomed the retention of the existing house and considered that the proposed development to the rear albeit a back-land development was appropriate in view of the size of the plot.
- (15) Mr Gowans, stated that CAG which he represented remained of the view that that the application should be refused. Demolition of the gable extensions and brick piers to the front boundary would result in the loss of original features and that the new houses to be sited to the rear of the plot would be visible from the public realm, were not of a

sympathetic design, would obscure the view of the trees which were important to the setting of the main house and would be detrimental to the character of the conservation area.

- (16) Councillor O' Quinn stated that she had welcomed the opportunity to visit the site, having done so she was of the view that the works proposed were in keeping with the host building, she particularly welcomed the fact that its key features and character were to be retained. The gardens to the rear of the existing building were substantial and could support the proposed development without being detrimental to the host building or the neighbouring street scene.
- (17) Councillor Miller noted the comments made by CAG considering that the proposed back-land development which would enable the renovation of the building fronting the site to be retained and renovated was acceptable in this instance. A number of other plots nearby had back land developments, or as in case of the neighbouring Whistler Court had been constructed on the site of an earlier building. Garage blocks at that site and others were clearly visible from the footway and he did not consider therefore that the proposed dwellings to the rear would be more intrusive or damage the setting of the conservation area.
- (18) Councillor Littman considered that removal of the gable extension was regrettable. However, in his view although the scheme was not perfect on balance he considered that it was acceptable and would be supporting the officer recommendation.
- (19) Councillor Hyde concurred with much that had been said stating that the Site Visit had been valuable as it had provided the opportunity to appreciate how large the site actually was. The development to the rear would enable the existing house and many of its features to be retained, those dwellings were of an acceptable design and scale in view of the size of the plot and she considered the proposals to be acceptable. She disagreed that harm would result to the conservation area in view of these buildings from the public highway.
- (20) Councillor Gilbey stated that she had considered that it had been a privilege to visit a building with so many of its original features intact and which were to be retained. In this instance she considered that the form of back-land development proposed was acceptable and she supported the proposed scheme.
- (21) The Chair, Councillor Cattell stated that she agreed that in this instance the proposed enabling development would be acceptable and of a good design at a suitable distance from the retained building and with a sizeable garden being retained. Renovation and retention of features associated with the existing house were also welcome.
- (22) A vote was taken and the 11 Members who were present when the vote was taken voted on a vote of 10 with 1 abstention that minded to grant planning approval be given.

101.2 **RESOLVED** - That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report and resolves that it is **MINDED TO GRANT** planning permission subject to a s106 Planning Obligation and the Conditions and Informatives set out in the report and below, **SAVE THAT** should the

s106 Planning Obligation not be completed on or before the 15<sup>th</sup> of May 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 11 of the report:

Amend description as on Late List.

Amend and additional conditions as on Late List.

**Additional Condition:**

An additional condition to be included as agreed by Committee requiring a Site Waste Management Plan.

**Additional Informative:**

Condition 5 requiring the approval of samples of external materials will be determined by the Head of Planning following consultation with Members attending the Planning Committee Chair's meeting.

**C BH2018/01336, Land at Rear of 1-45 Wanderdown Road, Brighton - Full Planning**  
Erection of 3no residential dwellings comprising of 2no four bedroom dwellings and 1no three bedroom dwelling incorporating parking, landscaping and associated works.

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

**Officer Presentation**

- (2) The Principal Planning Officer, Stewart Glassar, introduced the application and gave a detailed presentation by reference to site plans, photographs and elevational drawings detailing the scheme. It was explained that the application related to an area of land referred to as 'Long Hill', between Wanderdown Road to the west and The Vale to the east. To the north of the site was Ovingdean Road with the land beyond forming part of the South Downs National Park. To the west of the site was the Ovingdean conservation Area. In distant views from the west, north and east the site appeared as an undeveloped ridge and a break between the houses to either side of the hill. Adjacent to the site to the east were two detached dwellings; 'Monterey' and 'Badgers Walk'. Badgers Walk had an access to the rear of its garden through to the site and two stable buildings were situated in this area along with a manege (an enclosed area in which horses and riders are trained), set on raised land. Whilst the manege did not have planning permission it may have been in situ for more than four years. The site was designated as a Site of Nature Conservation Interest (SNCI) and there were live badger setts within the site; there were also two Tree Preservation Orders on the site; one dating from 1990 covered a number of individual trees on the site. A Woodland TPO had also been adopted in April 2015 following site clearances which were carried out at the end of 2014.
- (3) It was noted that the main considerations in determining the application related to the principle of the development, landscape impacts, ecology, transport and highway safety, neighbouring amenity, standard of accommodation, potential risk of flooding

and sustainability. It was also noted that objections received from neighbouring occupiers had raised concerns regarding the capacity of local infrastructure in the form of roads, sewers, schools, doctors and dentists. Neighbouring occupiers considered that any additional dwellings in the area would worsen the existing situation as the existing infrastructure was perceived to be already overstretched. The potential additional burden of three dwellings and households in this regard was not however considered to be of a magnitude which would warrant refusal of planning permission. It was considered that the local infrastructure did have the potential to accommodate a development of this scale without significant harm being caused and the same was considered to be the case in respect of concerns raised in regard to worsening existing air quality.

- (4) It had been concluded that the proposed development would provide three dwellings suitable for family occupation. The grounds for the dismissal of an appeal which had been lodged in respect of the previous planning application had related to landscape/visual impact and it is considered that these concerns had been overcome. The residential development of a greenfield site would cause harm to ecology/biodiversity however the County Ecologist, having regard to the comments of the appeal Inspector, considered that the harm which would be caused could be appropriately mitigated and conditions were recommended in that regard. The proposed vehicular access was also considered acceptable; the Transport Officer considered that an increased highway safety risk would not result as did the appeal Inspector previously. All other matters were considered acceptable subject to securing a contribution towards sustainable transport infrastructure and approval was therefore recommended.

### **Public Speakers**

- (5) Mr Smith spoke on behalf of the Ovingdean Residents and Preservation Society and neighbouring objectors. He stated that in their view notwithstanding reference which had been made to the decision of the Planning Inspectorate the previous reasons for refusal had not been overcome, not least because the location of the on-site dwellings would completely cut across and destroy the existing wildlife corridor. The mitigation measures proposed were considered insufficient to counter the harm which would be caused which would be irreversible. The existing TPO's would also be compromised.
- (6) Councillor Mears spoke in her capacity as a Local Ward Councillor setting out her objections to the proposed scheme. She stated that although the number of dwellings proposed had been reduced she remained of the view that this would still result in over-development of the site, would be visible from the National Park which would be unacceptable, would also be detrimental to the setting of Ovingdean Village and Longhill Ridge and would have a damaging impact on the ecology and biodiversity of the site. Three large luxury houses would be provided which would do nothing to address the city's need for affordable housing supply. Although a number of trees on site were protected by a TPO it appeared that this would be compromised as it appeared that it was intended to clear the site of trees and vegetation.
- (7) Mr Barker spoke on behalf of the applicants in support of the proposed scheme. He explained that in the light of the Planning Inspector's decision the applicant had looked at the site afresh and had sought to address the points which had been made. The

dwellings would be set into the site so that they would be inconspicuous within and would respect the semi-rural location of the site. The units would read as single storey across the site from east to west, thus being of an appropriate scale and massing; suitable landscaping was proposed which would respect and enhance that setting and would respect the ecology and bio-diversity of the site.

### Questions of Officers

- (8) Councillor Miller sought confirmation that if the scheme was approved signage could be provided which would encourage vehicles approaching the site from the brow of the hill of the need to slow down. Councillor Miller was also concerned that protection of badgers and other species was protected by suitably robust conditions and that the setting of the National Park and its boundaries was respected. Councillor Miller referenced the comments received from the County Ecologist in relation to the amended scheme which had stated that in the light of the appeal Inspector's comments; that harm caused by the scheme would need to be appropriately mitigated by badger protection measures, a lighting strategy, an ecology design strategy and a Landscape and Ecological Management Plan, seeking confirmation that all of these matters would be covered.
- (9) It was confirmed that signage could be provided and that a thorough road safety audit of the site had been carried out. The comments received from the County Ecologist had been picked up by Conditions 25 and 27.
- (10) Councillor Miller referred specifically to the badger setts which had been observed on site and regarding measures which would be put into place to protect them and in relation to Members ability to have input into the landscaping treatments provided.
- (11) Councillor Mac Cafferty requested details of the arrangements to be put into place to ensure that light spillage and pollution into the SNCI would not occur. Also, in relation to detail relative to landscaping measures which needed to ensure that the SNCI was respected. It was explained all statutory requirements in relation to the SNCI would need to be met. Feedback received from the Sussex Wildlife Trust would also need to be heeded.
- (12) Councillor Hyde stated that at the site visit the previous afternoon evidence of badger activity had been clearly visible in the form of well-worn and clearly established tracks and paths. Details as to how they would be accommodated were important.
- (13) Councillor C Theobald sought details regarding whereabouts on the site the badger setts would be re-located to and in relation to which trees/ foliage was to be retained which if any was to be removed and whereabouts on the site this was located. It was confirmed that the existing woodland area would be retained and that the houses which would replace the manege would be set back from and screened by it. The requirements of DEFRA and Natural England would need to be met and complied and that the applicant would need to satisfy them that was so.

### Debate and Decision Making Process



- (14) Councillor Hyde stated that she was gravely concerned about the impact on animals, including badgers, bats and reptiles living on the site and was mindful and agreed with the concerns put forward by Sussex Wildlife Trust and did not consider that ecological concerns had been taken sufficient account of, nor the close proximity to the national park. In her view the mitigation proposed was insufficient and a gain of 3 houses was insufficient to overcome the detriment and harm which would result. She could not support this application.
- (15) Councillor Littman concurred with all that had been said stating that the comments of the Planning Inspectorate sought strong mitigation to address and prevent irreparable harm and he did not agree that had been evidenced.
- (16) Councillor Miller stated that whilst noting the information provided relating to mitigation he was struggling to assess what impact there would be and whether what was proposed was sufficiently robust.
- (17) Councillor C Theobald acknowledged that this scheme represented an improvement on that previously refused and welcomed the reduction in the number of dwellings proposed. She was concerned however regarding potential impact on wildlife and loss of trees and on balance considered that she was likely to vote against the scheme.
- (18) Councillor O'Quinn totally supported all that had been said by other members. Having attended the site visit there was clear evidence of badger activity and although the site was not beautiful it was valuable to local ecology. The gain of 3 houses was insufficient in her view to outweigh the harm that would undoubtedly result.
- (19) Councillor Gilbey stated in addition to the other issues raised she was concerned about potential light pollution from the site and did not consider that had been adequately addressed.
- (20) Councillor Cattell, the Chair stated that she considered the application had addressed the previous reasons for refusal, represented an improvement on it and was acceptable. The site as it stood had suffered from fly-tipping and in her view this would continue to be a problem if left in its current condition.
- (21) A vote was taken and the 9 Members who were present when the vote was taken voted by 6 to 2 with 1 abstention that planning permission be not approved. An alternative recommendation was then sought and Councillor Hyde proposed and Councillor Littman seconded the proposal that the application be refused. The reasons put forward for refusal were that the proposed scheme would result in danger to biodiversity and ecology of the site; loss of the site for endangered species – badgers, bats, reptiles, birds; the gain of 3 houses did not mitigate that and was inappropriate, the loss of the site did not balance out for the gain of 3 houses; the LWS should be looked after; they were in agreement with the comments of the Sussex Wildlife Trust; the inspector on the appealed scheme had not been aware of the subsequent granting of planning permission for the nearby Vale development or able to make their decision in conjunction with that.
- (22) A recorded vote was then taken and Councillors Gilbey, Hyde, Littman, Mac Cafferty, O'Quinn and C Theobald voted that the application be refused. Councillors Cattell, the

Chair and Bennett voted that planning permission be granted. Councillor Miller abstained. Therefore on a vote of 6 to 2 with 1 abstention planning permission was refused. It was agreed that the final wording of the grounds for refusal would be prepared by officers in consultation with the proposer and seconder and that should the refusal be appealed the Committee agreed a s106 planning obligation could be entered into on the heads of terms as set out in the report.

- 101.3 **RESOLVED** - That the Committee has taken into consideration the reasons for the recommendation set out in the report but resolves to **REFUSE** planning permission for the reasons set out above and authorises that should the refusal as subsequently agreed with be appealed that a s106 obligation be entered into on the heads of terms set out in the report.

**Note:** Councillors Inkpin-Leissner, Morgan and Robins were not present at the meeting during consideration or determination of the above application.

**D BH2018/02052,9 Hampton Street, Brighton - Full Planning**

Erection of an additional storey at second floor level and creation of new single dwelling house (C3) with access from Spring Street and revised fenestration.

**Officer Presentation**

- (1) The Principal Planning Officer, Stewart Glassar, introduced the application and gave a detailed presentation by reference to site plans, photographs, floor plans and elevational drawings detailing the scheme. It was explained that the application related to a two-storey building located on the corner of Hampton Street and Spring Street. Planning permission was being sought to erect an additional storey on the northernmost part of the building and to subdivide the building into two dwellings, with revised fenestration. Drawings were also displayed indicating the differences between the previous scheme and that currently proposed.
- (2) It was noted that the main considerations in determining the application related to the principle of the subdivision of the existing dwelling, the design and appearance of the proposal in the context of the Montpelier and Clifton Hill Conservation Area and the impact of the proposal on neighbouring amenity; also, the standard of accommodation that the proposed units would provide and sustainable transport are also material considerations. The site was located in a busy residential area and so the creation of an additional residential unit in the building had been considered in respect of an earlier application which had not been considered likely to have a significant detrimental effect on neighbouring amenity due to increased noise disturbance. The current proposal was also considered to be acceptable in that regard and it was not considered that it would result in a significant increase in overlooking or overshadowing to neighbouring properties. No private amenity space was proposed, however the previous application for subdivision into two residential units had not done so either and both in respect of that earlier application and this latest proposal that was considered acceptable.
- (3) The amended scheme which had been put forward would provide dwellings which would exceed the minimum standards set out in the Government's National Technical Space Standards as did the bedrooms which would benefit from natural light and

outlook. Overall, the proposed dwellings were considered to provide a satisfactory standard of accommodation and approval was therefore recommended.

### Debate and Decision Making Process

- (4) Mr Gowans referred to the objections to the scheme put forward by CAG stating that they remained of the view that the application should be refused as the form of development proposed would not enhance the existing building or that part of the conservation area in which it was situated. The building was a rare example of an early Victorian terraced dwelling far earlier in date than its neighbours which were a later pastiche. The proposed extensions would also have a detrimental impact on views from Western Road to the spire of St Mary Magdalen Church which would be marred by the proposed form of development. The church represented an important local landmark and existing views of it would be reduced.
- (5) In response the Principal Planning Officer explained that whilst it was recognised that there would be an impact on St Mary Magdalen Church it was not considered this would be significant or such to warrant refusal.
- (6) Councillor C Theobald stated that she considered that the proposed development would be sympathetic to the existing street scene.
- (7) Councillor Cattell, the Chair, considered that the current proposals represented significant improvements to the previous scheme commending the work which had been undertaken by the Heritage Team in seeking modifications in order to ensure that the development respected the scale, roofline and streetscape of the neighbouring conservation area.
- (8) A vote was taken and the 5 Members who were present when the vote was taken voted on a vote of 4 with 1 abstention that planning permission be granted.

101.4 **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 also set out in the report.

**Note:** Councillors Bennett, Gilbey, Inkpin-Leissner, Mac Cafferty, Morgan, O'Quinn and Robins were not present at the meeting during consideration and determination of the above application.

**E BH2018/03174, - 37 Clarke Avenue, Hove - Full Planning**  
Installation of disabled access ramp from pavement to front elevation of property (Retrospective)

### Officer Presentation

- (1) The Principal Planning Officer, Stewart Glassar, introduced the application and gave a detailed presentation by reference to site plans, photographs and elevational drawings detailing the scheme. It was explained that the application site was a two-storey semi-

detached dwelling house on the south side of Clarke Avenue. Retrospective planning permission was being sought for the erection of an access ramp leading from the public highway to the front door of the application site, with an associated hand-rail.

- (2) It was noted that the main considerations in the determination of this application related to the impact of the proposal on the character and appearance of the host building and wider street scene, as well as the potential impact on the amenities of local residents. Also of consideration would be the improved access afforded by the ramp for those with mobility-related disabilities and the potential impact on archaeological remains. Although it was recognised that there would be harm to the wider street scene due to the scale of the handrail and modest loss of green-space, it was not considered severe enough to warrant refusal and the suggestion of a condition tying the presence of the ramp to the presence of the current occupant of No.37 was supported, successfully mitigating the harm to an acceptable level. Given that the works had already been carried out it had not been possible to fully assess the potential impact they may have had on archaeological remains. This scheme was considered acceptable however given the modest area of land developed and the fact that the design had not required any deep excavation works. Concerns had been expressed that works had been carried out without consulting local residents. Consultation had been carried out as part of this planning application and the fact that the applicant had sought retrospective planning permission had not been weighed against them as part of this assessment. The fact that this application had only come in due to a complaint being lodged to the Local Planning Authority had also not be weighed against the applicant. Concerns had also been reported that previous attempts to purchase areas of the green space to convert to a hardstanding have been rejected by the Council. This application had been weighed on its own merits and it was considered that the proposal had far less of a visual impact than would a hardstanding in front of a similar property in the street scene.
- (3) It was considered that adequate information had been submitted in order to enable the application to be assessed and a decision taken. The works carried out would offer improved level access for the current occupant and it was considered that this benefit would outweigh the moderate harm to the character of the street scene. A condition was also recommended limiting the presence of the ramp and on that basis the works were considered to be acceptable and approval was therefore recommended.

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

- (4) It was noted that Officers from the Housing Adaptations Team were present and the Chair, Councillor Cattell, sought clarification regarding why prior planning approval to carry out the works had not been sought and it was explained that although compliance with Building Control Regulations had been sought, the applicants had been unaware that planning permission was also required. The Chair stated that she hoped that in future this could be checked in advance of works being undertaken. In answer to further questions by the Chair it was explained that works had been carried out in order to meet the specific needs of the occupant to a specification required by the occupational therapy team.

- (5) Councillor Hyde sought confirmation that the land on which the ramp had been placed was located directly in front of no 37 Clarke Avenue and the status of that land. Councillor Gilbey also enquired regarding the status of this land and it was confirmed that it maintained by the council for general amenity but was not designated for other purpose, for instance as a play space.
- (6) Councillor C Theobald asked whether a double handrail was proposed, also referring to the hand rail and ramp which could be observed in front of a similar property nearby which appeared to be of similar construction and appearance.
- (7) The Chair stated that she did not consider it appropriate for any permission granted to be automatically removed once the property was vacated by the current applicant as a future tenant might be allocated to the property on the basis of adaptations which had been made to it including this exterior ramp. The Chair therefore recommended that Condition 2 be removed in the event that planning permission was granted.
- (8) A vote was taken and the 6 Members present when the vote was taken voted by 5 with 1 abstention that planning permission be granted subject to the removal of Condition 2.

101.5 **RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in the report (with the exception of Condition 2 which is to be removed),and resolves to **GRANT** planning permission subject to the Conditions and Informatives also set out in the report.

**Note:** Councillors Bennett, Inkpin-Leissner, Mac Cafferty, Morgan, O’Quinn and Robins were not present at the meeting during consideration and voting in respect of the above application.

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

102.1 There were none.

## **103 INFORMATION ON PRE APPLICATION PRESENTATIONS AND REQUESTS**

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

## **104 LIST OF NEW APPEALS LODGED WITH THE PLANNING INSPECTORATE**

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

## **105 INFORMATION ON INFORMAL HEARINGS/PUBLIC INQUIRIES**

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

## **106 APPEAL DECISIONS**

106.1 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 7.05pm

Signed

Chair

Dated this

day of

**PLANNING COMMITTEE****Agenda Item 110**

Brighton &amp; Hove City Council

**Subject:** Written Question(s)  
**Date of Meeting:** 6 March 2019  
**Report of:** Executive Lead, Strategy, Governance and Law  
**Contact Office Name:** Penny Jennings  
**Tel :** (01273 291065  
**E-mail:** Penny.jennings@brighton-hove.gov.uk  
**Wards Affecte All**

**FOR GENERAL RELEASE****WRITTEN QUESTION: RE PLAQUES, GRAND AVENUE, HOVE**

1.1 To consider the following question submitted to by Mr Hawtree:

“Would Councillor Cattell please tell us what Enforcement measures are in place about 20 Grand Avenue, where a plaque bears testimony that this was the early home of Ivy Compton-Burnett – a plaque long out of sight owing to apparent building works – and also what Enforcement measures are being taken about the buildings opposite – numbers 15 and 17 – which have, similarly, been shrouded by boards with no work completed?”

Christopher Hawtree.

**THE CHAIR WILL THEN GIVE HER RESPONSE**

Following which Mr Hawtree will have the opportunity to ask 1 supplementary question should he so wish.





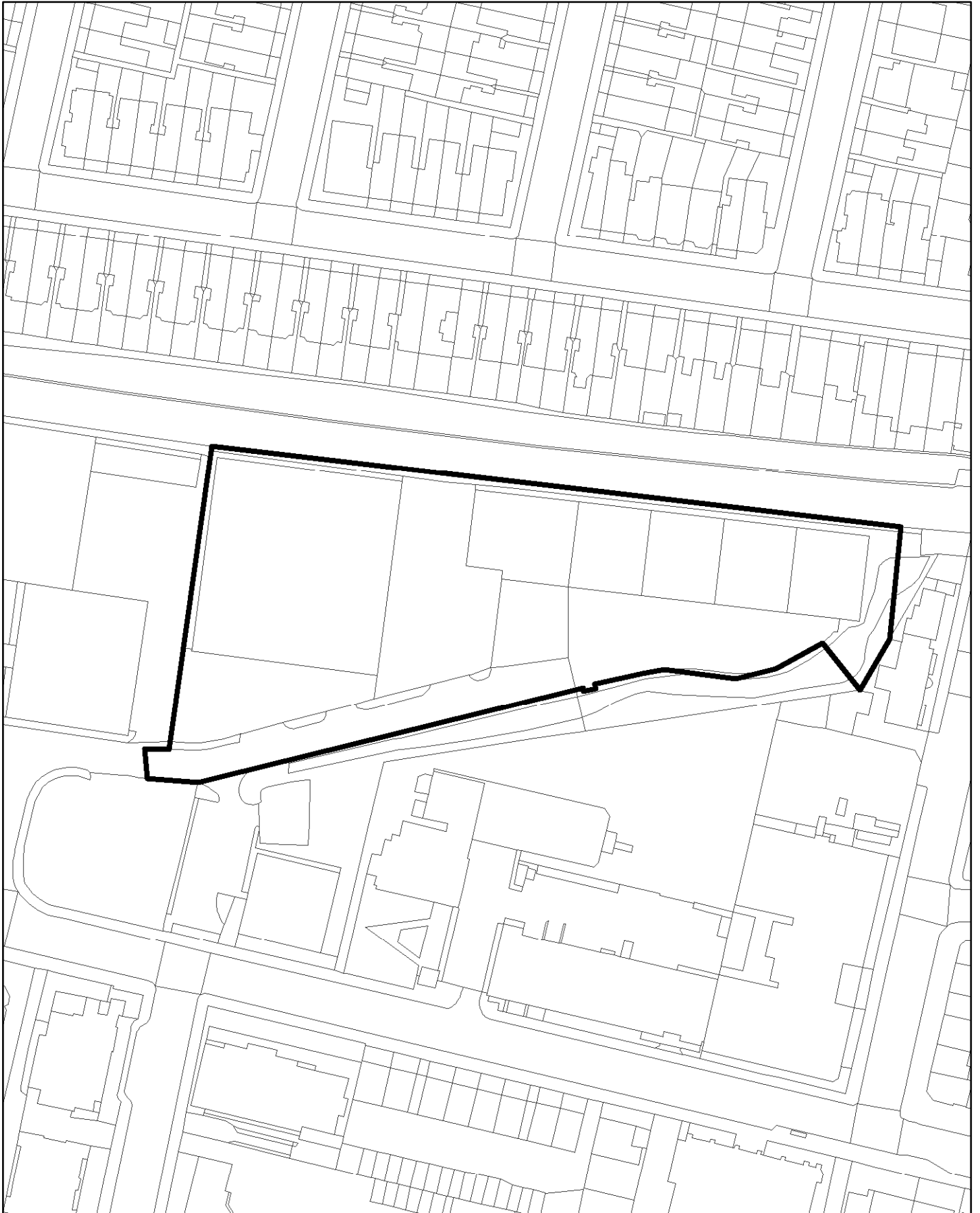
# **ITEM A**

**Land to rear of Lyon Close, Hove  
BH2018/01738  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> July 2019**



# BH2018/01738 Land to rear of Lyon Close, Hove



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2018/01738</b>	<b><u>Ward:</u></b>	<b>Goldsmid Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Land At Lyon Close Lyon Close Hove BN3 1RE</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing buildings (B8) to facilitate a mixed use development comprising of the erection of 4no buildings between 6 and 8 storeys to provide 152 dwellings (C3), 2 live/work units (sui generis) and 697sqm of office accommodation (B1) with associated car and cycle parking, landscaping and other related facilities.</b>		
<b><u>Officer:</u></b>	<b>Chris Swain, tel: 292178</b>	<b><u>Valid Date:</u></b>	<b>27.06.2018</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>26.09.2018</b>
<b><u>Listed Building Grade:</u></b>	<b><u>EOT:</u></b>		
<b><u>Agent:</u></b>	<b>Savills 74 High Street Sevenoaks Sevenoaks TN13 1JR</b>		
<b><u>Applicant:</u></b>	<b>Crest Operations Ltd And Palace Street Developments Ltd C/o Savills 74 High Street Sevenoaks TN13 1JR</b>		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **Minded to Grant** planning permission subject to the expiry of the re-consultation period expiring on the 1<sup>st</sup> of March 2019 and no new planning considerations arising, and 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 26th June 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 9 of this report:

### **S106 HEADS OF TERMS**

- Affordable Housing: 10% (16 units) shared ownership,
- Review Mechanism to reappraise the viability of the scheme at an agreed future date,
- Local Employment Scheme - Contribution of **£44,000** towards the city-wide coordination of training and employment schemes to support local people to employment within the construction industry
- Employment and Training Strategy - Minimum of 20% local employment for the construction phase,
- Public Art - Contribution of **£62,000**,
- Open Space and Recreation Contribution of **£385,290.08** to be spent on the following;
  - Children and young people's play space contribution of £9,185.02 to be spent on St Ann's Well Gardens and / or Dyke Road Park,

- Amenity Green Space contribution of £10,930.69 to be spent on St Ann's Well Gardens and / or Dyke Road Park
- Outdoor Sports Facilities contribution of £93,148.13 to be spent on Nevill Recreation Ground and / or Preston Park and / or Withdean Stadium and / or Aldrington Recreation Ground,
- Indoor Sport contribution of £61,250.00 to be spent on Prince Regent, and or Withdean Leisure Centre and or Kingsway (Kings Alfred or other),
- Parks and Gardens contribution of £136,290.08 to be spent on St Ann's Well Gardens and / or Dyke Road Park and / or Preston Park,
- Natural and Semi-Natural contribution of £61,075.00 to be spent on meadow creation / tree planting at Hove Park and / or Preston Park,
- Allotments contribution of £13,368.75 to be spent on water infrastructure (Weald/Nevil), and / or track improvements (Weald/North Nevil) and /or Fencing (North Nevil).
- Education Contribution of **£122,412.80** towards:
  - Secondary (£105,496.80) and Sixth Form (£16,916.00) to be spent on Blatchington Mill and / or Hove Park Schools,
  - A Construction & Environmental Management Plan (CEMP)
  - A Delivery & Service Management Plan. Amongst other things, this should include -
    - details of any physical access control features that will be provided (e.g. retractable bollards) and any proposals to trial the initial omission or inclusion of these if relevant, and longer term provisions for the management, maintenance and retention of these, including use by third parties such as City Clean; and
    - measures to safely manage occasional turning movement by larger vehicles in front of the access to the podium car park
- A section 278 highway works scheme to include -
  - Widening the southern footway of Lyon Close to 2m in the vicinity of the site interface
  - Introducing a dropped kerb and tactile paving to the northern footway of Lyon Close at the western side of the access to the service yard to the rear of Tapi carpets. Note that the reciprocal dropped kerb on the other side of the access is within the site and will be created as part of the proposed landscaping scheme.
  - Introducing dropped kerbs and tactile paving to the northern/western footway of Lyon Close across the access to the retail park.
- A Sustainable Transport contribution of **£125,000** towards the following off-site works to secure safe and inclusive access to and from the development and local amenities by sustainable forms of transport.
  - Creating direct stepped access from the southern footway of Lyon Close, at the site boundary, to the path running along the eastern edge of the Artisan development. (£20K); and/or
  - Pedestrian improvements along Lyon Close, including potentially and at its junction with Davigdor Road and the access to the retail park, to include inter alia (£80K)
    - Introducing dropped kerbs with tactile paving to either side of the access to the retail park at its junction with Lyon Close; and/or

- Tightening Lyon Close at its junction with Davigdor Rd and other works at this junction to slow turning vehicles and improve ease of crossing for pedestrians; and/or
    - Raising and/or widening and/or resurfacing the northern footway of Lyon Close, east of the junction with the access to the retail park, and/or removing existing bollards and/or introducing local loading restriction; and/or
  - Pedestrian crossing improvements on Davigdor Road to facilitate pedestrian access to local amenities, including, inter alia, St Ann's Well Gardens (£20K)
- A 5 year Travel Plan, with separate targets for the residential and office uses, and with monitoring informed by TRICS SAM surveys at years 1, 3 and 5 and monitoring fees for the officer time. Associated measures should include the following as a minimum:
- (For the residential component)
  - Providing 2 off-site car club bays and associated vehicle service on public streets in the vicinity of the development.
  - Providing 10 or more B&HCC Bike Share stands and bikes on local street in the vicinity of the site.
  - Providing residents with free or heavily subsidised tickets/memberships for local public and shared transport services for one or more years, including:
    - Local buses and/or train services;
    - Brighton & Hove Bike Share; and
    - Enterprise Car Club
  - Providing formal cyclist training to residents on request, to be marketed throughout the development,
  - Providing maintenance stands together with pumps and basic tools within the cycle stores for resident use.
  - Providing residents a voucher of  $\geq$ £150 to go towards the cost of purchasing a bicycle.
  - Establishing a Bicycle User Group. This should be subsidised for the duration of the Plan to provide –
    - 'Bike buddy' services to other residents/workers thinking of taking up cycling
    - several social rides per year, including an allowance for refreshments.
    - 2 or more 'Doctor Bike' sessions per year with both a direct repair and a teaching element.
    - Providing information on sustainable transport options and measures in all marketing material (including any on-line).
    - On site information boards.
- (For the office component)
- Providing information on sustainable transport options and measures in all marketing material (including any on-line).
  - On site information boards.(for the office component)
  - Providing interest-free loans to staff for the purchase of bus and rail season tickets and bicycle purchase.
  - Establishing a Bicycle User Group, as for the residential component.

- Providing annual personalised travel planning to employees for the duration of the plan
- Providing showers and locker facilities

**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>
Proposed Drawing	A-SH-05-ZZ-004	D0-4	24 January 2019
Proposed Drawing	A-SH-05-ZZ-003	D0-4	24 January 2019
Proposed Drawing	A-SH-05-ZZ-002	D0-4	24 January 2019
Proposed Drawing	A-SH-05-ZZ-001	D0-4	24 January 2019
Proposed Drawing	A-SH-03-RF-001	D0-4	24 January 2019
Proposed Drawing	A-SH-03-07-001	D0-4	24 January 2019
Proposed Drawing	A-SH-03-06-001	D0-4	24 January 2019
Proposed Drawing	A-SH-03-05-001	D0-4	24 January 2019
Proposed Drawing	A-SH-03-04-001	D0-4	24 January 2019
Proposed Drawing	A-SH-03-03-001	D0-4	24 January 2019
Proposed Drawing	A-SH-03-02-001	D0-4	24 January 2019
Proposed Drawing	A-SH-03-01-001	D0-4	24 January 2019
Proposed Drawing	A-SH-03-00-001	D0-4	24 January 2019
Proposed Drawing	A-SH-02-ZZ-002	D0-2	24 January 2019
Proposed Drawing	185120-001	G	13 February 2019
Location Plan	A-SH-02-ZZ-001	D0-1	1 June 2018
Proposed Drawing	P11144-00-001-GIL-0100	D-01	31 January 2019
Proposed Drawing	A-SH-02-ZZ-001	S2-5	24 January 2019
Proposed Drawing	A-SH-02-ZZ-002	S2-5	24 January 2019
Proposed Drawing	A-SH-02-ZZ-003	S2-5	24 January 2019
Proposed Drawing	A-SH-02-ZZ-006	S2-5	24 January 2019
Proposed Drawing	A-SH-02-ZZ-007	S2-2	24 January 2019

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

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

3. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard



the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

4. Five per cent of the dwellings hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

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

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

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

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

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

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

8. Prior to first occupation of the development hereby approved, details of the photovoltaic array referred to in the Energy Statement 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.

9. Within 3 months of first occupation of the non-residential development hereby permitted a BREEAM Building Research Establishment has issued a Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' and such certificate has been submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton & Hove City Plan Part One.
10. Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to first occupation of the development hereby permitted. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed prior to first occupation of the development hereby permitted, and maintained and operated in accordance with the approved details thereafter.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and comply with policy QD27 of the Brighton and Hove Local Plan.
11. 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 bricks, mortar and metal cladding,  
b) details of all hard surfacing materials,  
c) details of the proposed window, door and balcony treatments,  
d) details of all other materials to be used externally,  
e) a schedule outlining all of relevant materials and external details  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy QD14 of the Brighton & Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One.
12. No development above ground floor slab shall take place until an example bay study showing full details of window(s) and their reveals and cills including 1:20 scale elevational drawings and sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy CP12 of the Brighton & Hove City Plan Part One.
13. The development hereby permitted shall not be commenced (other than demolition works and works to trees) until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design

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

14. Notwithstanding the plans hereby permitted, no development shall take place until detailed drawings of the access road and pavements within the site have been submitted to and approved in writing by the Local Planning Authority. These shall include, but not be limited to, construction details covering the following:

- (i) Pavement design, including dropped kerbs and tactile paving
- (ii) Surface finishes
- (iii) Levels
- (iv) Drainage
- (v) Street lighting
- (vi) Street furniture

The works shall be designed to as near adoptable standards as is possible and be implemented in accordance with the details approved prior to the first occupation of the development and retained as such thereafter.

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

15. The vehicle parking areas 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. No parking, waiting or loading shall take place in the external areas of the street except for the purposes of delivering and servicing the development.

**Reason:** To ensure that adequate parking provision is retained, to ensure the safety of people accessing the site and to comply with policy CP9 of the City Plan Part One and retained policy TR7 of the Brighton & Hove Local Plan.

16. Prior to the first occupation of the development hereby approved a Car Park Management Plan, which includes full details of how the car parking spaces will be managed and allocated to the end users of the development and which favours the provision of allocating the spaces to residential units, shall be submitted to and approved in writing by the Local Planning Authority. All management and allocation of all spaces shall thereafter be carried out in accordance with the approved plan.

**Reason:** In order to provide an appropriate level of car parking and to limit the potential for overspill car parking and ensure that the development is in accordance with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

17. Prior to first occupation of the development hereby permitted, a scheme shall have been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development have no entitlement to a resident's parking permit.

**Reason:** To ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.

18. Notwithstanding the plans hereby permitted, prior to first occupation of the development hereby permitted, full details of the motor vehicle parking area and layout, including all electric vehicle charging points within the proposed car park, and details of disabled car parking provision for the occupants of, and visitors to the hereby permitted development shall 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 policies CP9 of the City Plan Part One and SPD14 Parking Standards.
19. Notwithstanding the plans hereby permitted, prior to first occupation of the development, full details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.
20. No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any external façade.  
**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policy CP12 of the Brighton & Hove City Plan Part One.
21. The commercial premises hereby permitted shall be used as an office (Use Class B1(a)) only and for no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the supply of office floorspace in the city given the identified shortage and also to safeguard the amenities of the area and to comply with policies CP3 and QD27 of Brighton & Hove City Plan Part One.
22. The commercial element of the two live/work units shall only be used for a use that would be compatible with Class B1 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) and no other purpose and shall be retained as such in perpetuity.

**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 supply of commercial floorspace in the city given the identified shortage and also to safeguard the amenities of the area and to comply with policies CP3 and QD27 of Brighton & Hove City Plan Part One.

23. The use of the office hereby permitted shall not be carried out except between the hours of 07:00 and 23:00 on Mondays to Sundays, including Bank or Public Holidays.

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

24. The sound insulation for glazing and ventilation throughout the development shall all be in accordance with the specification for Type B glazing set out in table 7.2 of the Noise Exposure Assessment produced by Ardent Consulting Engineers, Report Ref No. 173000-05, Project No. 173000 and dated May 2018. Details of the required mechanical ventilation shall be submitted to the Local Planning Authority and approved in writing prior to occupation.

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

25. All separating walls and floors between the residential units and commercial floorspace, plant rooms, recycling and refuse stores and vehicle and cycle parking areas shall be designed to achieve a sound insulation value of 5dB greater than that required by Approved Document E of the building regulations performance standard for airborne sound insulation for purpose built dwelling-houses and flats. Written details of the scheme, including calculations/specification of how this standard will be achieved, shall be submitted to and agreed by the Local Planning Authority prior to occupation.

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

26. No development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration 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 the future occupiers of the development and adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

27. (1) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:

- a) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with 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,

- b) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

(2) The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition (1)c that any remediation scheme required and approved under the provisions of condition (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority 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.

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

**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

29. The development hereby permitted shall not be occupied until details showing the type, number, location and timescale for implementation of the compensatory bird / bat boxes or bricks has been submitted to and approved in writing by the Local Planning Authority. The scheme shall then be carried out in strict accordance with the approved details and thereafter retained.

**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton &

Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One and SPD11: Nature Conservation and Development.

30. The development hereby permitted shall not be first occupied until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first occupation of the development hereby approved and thereafter retained.

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

31. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until the protection measures identified in the submitted Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan Rev 0 by MJC Tree Services Limited and received 8 June 2018 are in place and retained throughout the construction process. The fences shall be erected in accordance with British Standard BS5837 (2012) Trees in relation to design, demolition and construction – Recommendations and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One and SPD06: Trees and Development Sites.

32. No tree shown as retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

33. Notwithstanding the plans submitted no development above ground floor slab level of any part of the development hereby permitted with the application shall take place until a scheme for landscaping is submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme 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:

- i. hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
- ii. a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, underground modular systems, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- iii. specifications for operations associated with plant establishment and maintenance that are compliant with best practise; and
- iv. existing and proposed boundary treatments to include type, position, design, dimensions and materials;
- v. details to achieve greening of the external north facing elevation of the metal podium wall and railings;
- vi. details of private demarcation treatments (screening or planting) in association with all residential units sited on the ground floor and at first floor level fronting onto the podium floor amenity areas,

34. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.. Where it is intended to create semi-natural habitats, all species used in the planting proposals shall be locally native species of local provenance unless otherwise agreed in writing with the local planning authority.

**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 QD27 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

35. Prior to the commencement of the development hereby approved (including any ground clearance, tree works, demolition or construction), details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) 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.

**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.

36. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until a pre-commencement meeting is held on site and attended by the developers appointed arboricultural consultant, the site manager/foreman and a representative from the Local Planning Authority (LPA) to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved



tree protection plan. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the LPA.

**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 / CP13 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 applicant should be aware that whilst the requisite planning permission may be granted, should any complaints be received with regards to noise, dust, odour or smoke, this does not preclude this department from carrying out an investigation under the provisions of the Environmental Protection Act 1990.
3. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk) in order to progress the required infrastructure.
4. The Highway Authority would look for the number of fully accessible disabled bays designed in full accordance with the Department for Transport Traffic Advisory Leaflet 5/95, Parking for Disabled People, which requires a 1.2m clear zone either side of a bay, to be maximised.
5. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites ([www.breeam.org](http://www.breeam.org))
6. The water efficiency standard required is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
7. 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.

8. The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting birds, their nests and eggs is a criminal offence. The nesting season is normally taken as being from 1st March - 30th September. The developer should take appropriate steps to ensure nesting birds, their nests and eggs are not disturbed and are protected until such time as they have left the nest.
9. The applicant is advised that the scheme required by the condition that relates to the removal of parking permits shall include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is permit free.
10. The applicant is reminded that all species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2010, making them European Protected Species. Ivy on trees offers a potential bat roost feature, and as such, any ivy clad trees should be assessed for their bat roost potential prior to felling. If they are assessed as having moderate to high potential for bats, further surveys will be required to inform appropriate mitigation, which may include the need for a European Protected Species licence.

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

- 2.1. The site relates to a 0.9 hectare parcel of land within Peacocks Trading Estate, accessed off Lyon Close. The site contains two existing buildings containing three commercial units in warehouse use with ancillary trade counters, these being Toolstation, Howdens Joinery Co. and Graham Plumbers Merchant.
- 2.2. To the west of the site the trading estate contains two further large scale retail units in Wickes and Tapi Carpets. To the south of the site there is a multi-storey office building (P&H House), a cleared former office site with planning permission for an 8 storey mixed use block (113-119 Davigdor Road) and a recently constructed 8 storey mixed use block (121-123 Davigdor Road). Immediately to the north of the site is the railway line which backs onto the terraced properties on Lyndhurst Road, which is on higher ground. To the east of the site is a single dwelling and a modern residential block which are accessed off Montefiore Road. It is noted that there is a bank of vegetation and trees which rises up to the south and east and separates the application site from the adjoining land parcels.
- 2.3. As originally submitted the application proposed the demolition of the two existing warehouse buildings and the erection of a single storey podium level with undercroft parking and amenities and 4 blocks between 5 and 10 storeys to provide 163 residential units and 938sqm of commercial space.

- 2.4. The scheme was subject to revisions during the life of the application and the current proposal is for four blocks ranging from 6 to 8 storeys to include the following:
- 152 dwellings (C3) with a mix of 21 studio, 49 one bedroom, 76 two bedroom, and 8 three bedroom flats,
  - Two live/work units, (88sqm of which is employment space)
  - 697sqm of office accommodation (B1).
  - Undercroft level containing 80 parking bays and 174 cycle spaces,
  - Raised external communal amenity area between the blocks,
- 2.5. The four blocks are the following heights:
- Block A at 7 storeys
  - Block B at 6 storeys
  - Block C at 6 storeys
  - Block D at 8 storeys.
- 2.6. The key changes to the scheme are the following:
- reduction in units from 163 to 152 units;
  - reduction in building height of Block D from 10 to 8 storeys;
  - increase in height of Block C from 5 to 6 storeys;
  - commercial floor space in Block A reduced and located on ground floor, replaced on first floor by 4 residential units;
  - 2 additional live/work spaces located on the ground floor of Block A and B;
  - Revised layouts throughout to relocate the balconies off bedrooms rather than lounges,
  - Revised layout of studio apartments;
  - Alteration to dwelling mix and tenure including 16 Shared Ownership units in Block B. This equate to 10% of the units.

### 3. RELEVANT HISTORY

- 3.1. Units A, B & C:
- 3.2. **3/92/0278(F)** - Change of use from light industrial use to Class B8 warehouse and distribution with ancillary facilities for mixing and tinting paint, a trade counter and offices. Approved 09/07/1992
- 3.3. **3/80/0543-** Retrospective application for (1) Revision to elevations (11) Change of use: warehouse to light industrial: Unit C (original 3/78/0296). Approved 07/11/1980
- 3.4. **3/78/00396-** Private estate road. Approved 04/09/1978
- 3.5. **3/78/0296-** Construction of (a) Class X warehouse of 22,500 sq.ft (b) (1) 12,500 sq.ft industrial floorspace (Units A & B) & (11) 7,830 sq.ft warehouse (Unit C). Approved 29/09/1978
- 3.6. Unit B:

- 3.7. **BH2007/04478-** Certificate of lawfulness for proposed warehousing and storage use. Proposals to include the provision of an ancillary and 'de minimis' trade counter area. Approved 28/04/2008.
- 3.8. **3/93/0101(F)-** Change of use from B1 to B8 and external alterations including two roller shutter doors. Approved 14/04/1993
- 3.9. Unit C:
- 3.10. **BH2005/06409-** Change of use of Unit C from B1 (offices) to B8 (storage and distribution). Approved 28/04/2005

#### Member Pre-Application Briefing

- 3.11. Members made the following observations on the scheme following a presentation on 8 May 2018.
- 3.12. Planning Policy
- The proposed policy compliant level of affordable housing (40%) was welcomed.
  - The flexible office space to be provided was generally well received. There was some concern raised about the reduction of commercial floorspace in comparison to the existing use, although it was acknowledged it would provide a more intensive form of employment.
- 3.13. Design / massing / townscape / landscaping
- It was considered that the scheme had progressed since previous proposals and the removal of the solid block running along the rear boundary adjacent to the railway line was seen as a positive, breaking up the massing of the development.
  - There were queries as to why the height of the scheme had increased in places compared to the previous proposal and the overall design approach (and in particular the 10 storey block) would need to be fully justified.
  - It was noted that the elevations / visuals were not well developed at the present time. It was advised that high quality detailing and materials would be critical on a scheme of this scale. A lighter coloured brick (than the red brick in the presentation) may be appropriate. Timber cladding and through render were discouraged.
  - It was suggested that work was required to ensure the overall landscaping scheme provides attractive and usable amenity spaces and an appropriate balance between private and more public spaces.
- 3.14. Amenity
- Some concern was raised as to how the proposal would impact on neighbouring properties, including the new build housing development to the east of the site fronting Montefiore Road and properties on Lyndhurst Road to the rear. It would need to be demonstrated that residential amenity was not detrimentally impacted.

- It was considered that work was required to ensure that the single aspect ground floor units fronting the shared space provided satisfactory outlook and living conditions for future occupiers.
- 3.15. Transport
- Some concern was raised over the proposed shared space in regards to the safety of pedestrians / cyclists and also in respect to the quality and attractiveness of the space created and more thought should be given to how this would work in practise.
  - The positioning of the access to the undercroft parking was questioned and it was suggested that it may be more appropriately located closer to the main entrance to the site.
  - The feasibility of a pedestrian access from the north east of the site connecting to Montefiore Road should be investigated.
- 3.16. Other Pre-Application advice
- 3.17. Three mixed use schemes were submitted for formal pre-application advice between 2016 and 2018 proposing approximately 150-175 residential units in various designs and layouts. During this time proposals went through a design review process in July 2017 and also March 2018.
- 3.18. The principle of housing on the site was supported subject to satisfactory justification for its loss and the provision of sufficient new employment space. Concerns were raised over the density and massing of the proposals which were considered to provide inadequate external amenity spaces and living conditions for future occupiers. It was considered that the scale, design and layout of the scheme needed further consideration to both mitigate the impact on neighbouring amenity and also integrate more fully with the existing and future built form in the area.

## **4. REPRESENTATIONS**

- 4.1. One hundred and thirteen (116) representations have been received objecting to the proposed development for the following reasons:
- 4.2. Design
- 10 storey tower is out of keeping with the local residential area and would set a worrying precedent for future developments,
  - Out of character and fails to pick up on the low rise Victorian and Edwardian properties in the area,
  - Density is far too great,
  - Appalling design with ugly, brock brick buildings,
  - More glass and colour should be used,
  - The proposal city centre design is out of context in a more suburban environment,
  - The design does not accord with planning policy,
  - Will detract from the existing skyline,
  - The designs are blocky with little architectural merit,
  - Bulk and massing is out of scale,

- Will destroy the unique character of this mature suburban area,
- Significant overdevelopment of the site,
- Not the right location for a development of this scale,
- Overdevelopment of the site,
- A smaller, low rise scheme should be considered,
- The proposal dwarfs neighbouring properties and as such is completely out of context,
- Contrary to the Tall Buildings SPG15,
- Uniform brick strip cladding does not match a traditional brick finish,
- Insensitive design approach,
- Excessive in height and number of units,
- Block D should be comparable in scale to the new development on Montefiore and should be reduced significantly in height,
- None of the blocks should be over 5 storeys,
- No justification in the submission for a 10 storey block,
- P & H House should not be used as a precedent,
- Bland design,
- The design has a significant negative impact on longer views,
- The proposal is not in an area designated for tall buildings,
- The blocks should not be higher than the existing housing to the north on Lyndhurst Road,
- Revised design is still unacceptably large and out of character

#### 4.3. Amenity

- Loss of privacy / overlooking to adjoining properties to the rear on Lyndhurst Road,
- Loss of light, overshadowing to neighbouring properties,
- Height is completely overbearing,
- The proposal dwarfs neighbouring properties and as such is completely out of context,
- Visually dominant impact,
- Increased noise and disturbance for neighbouring residents from balconies and the communal amenity areas including evening and weekends,
- Noise and disturbance during the construction period,
- Detrimental to the quality of life of neighbouring occupiers,
- Light pollution for surrounding properties,
- The submitted Daylight and Sunlight Report outlines that a number of properties on Lyndhurst Road and the Montefiore Road will be adversely affected,
- Winter sun is not assessed,
- Insufficient level of communal gardens,
- Blocks will magnify and reflect railway noise,
- Removal of trees will detract from residential amenity of the area,
- The cumulative impact of the proposal with other potential developments in the area will further worsen the quality of life for surrounding occupiers,
- Loss of light can impact on people's mental health,
- Removal of some of the trees will worsen overlooking into neighbouring properties,

- Noise assessment is inadequate and does not consider noise to neighbouring properties from the development,
- Loss of view,
- Too many studio flats,
- Lack of wind modelling,
- The scheme is sited too close to the north and eastern boundaries,
- Loss of right to peaceful enjoyment of properties,
- Revised scheme will still have a significantly harmful impact on the amenity of neighbouring properties.

#### 4.4. Housing

- The proposed housing will not be affordable to the vast majority of local residents and will not help the housing shortage,
- The Artisan block is still mostly empty,
- Concern whether there is sufficient demand for luxury flats,
- The scheme should concentrate on providing family housing,
- The level of affordable housing is inadequate,
- The proposal should be 100% rented social housing,
- Does not provide any low cost housing,
- The lack of affordable housing in the City is such that essential public services are struggling to adequately recruit,
- Too many flats and no houses proposed,

#### 4.5. Transport

- Inadequate parking for the scheme will cause overspill parking in neighbouring streets,
- Davigdor Road is already dangerous and the proposal will worsen this,
- There is only one bus route in this location and buses are irregular and overcrowded,
- Road network would be negatively impacted especially in rush hours,
- Smaller roads in the vicinity will become rat runs,
- Zone O parking is already oversubscribed,
- Single access point into the site is inadequate,
- Pedestrians and cyclists are not satisfactorily segregated from the vehicular traffic,
- Building works themselves will bring more heavy traffic, noise pollution and dirt,
- The travel plan is inadequate,
- The entrance to the undercroft parking is poorly located and should be closer to the entrance,
- The results of the Transport Assessment are questioned and a new study should be commissioned,
- Parking should be on a 1:1 basis,
- Parking entrance should be nearer the site access to the west of the site,
- Hove average is one car per home. Providing 0.5 spaces per flat is inadequate,

#### 4.6. Employment

- The loss of the existing trade stores will mean longer travel times for local residents who use the facilities,

- The loss of jobs and useful, assessable shops,
- The existing businesses in the proposed development area support many trades people and small businesses who live locally,
- There is already an oversupply of office accommodation in the City,
- The building of the development would not likely be using local people,
- Howdens Joinery have submitted a representation objecting to the scheme and highlight that they currently employ 10 staff who provide a valuable service to local trades with 600 trade accounts on their books,
- B1a accommodation was demolished at 121-123 Davigdor Road in 2016 on the basis that it was redundant. The same developer Crest Nicholson is now proposing that B1a use is viable on the site. The need for office space here has proven to be unsustainable ,
- The loss of employment space is contrary to policy CP3
- The proposed office space will likely be converted to more housing in the future,
- The proposed office space will be left empty by the developer who will then apply for permission to convert to more housing,
- The developer will not take on local builders or apprentices,
- The adjoining site owner (HIF) which owns the retail warehouses used by Wickes and Tapi. There is a concern that the close proximity of the proposal to their service yard could result in a long term threat to their business if there are noise complaints from future residents.

#### 4.7. Other considerations

- Local schools, dentists and GP's are already oversubscribed,
- The proposal will have a massive impact on already overstretched infrastructure,
- Lack of amenities with no shops or restaurants proposed,
- Increased pollution,
- Lack of educational and leisure facilities and open spaces for the benefit of the local community,
- The sewage system will not cope,
- It appears the council values income from developers above local communities and their wishes,
- developers motive is profit rather than impact on the quality of life of residents in the City
- Whilst neighbour feedback from early consultation with the applicant has been overwhelmingly negative there is no evidence that the scheme has been revised to overcome concerns,
- Poor development decisions have consistently blighted the area,
- Impact on the South Downs National Park,
- Green spaces in the surrounding area are at a premium and the developer should contribute to their upkeep,
- Proposal is detrimental to ecology,
- Will reduce neighbouring property prices,
- Some of the online documents are not available,
- Concerns in respect of flood risk,
- Concerned that the local water supply and sewerage systems will be unable to cope,
- Nesting birds and mammals are likely to be detrimentally impacted,



- Lack of meaningful consultation by the developer,
  - At the public consultation meetings the developer stated that they would not propose buildings of over 6 storeys,
  - Lack of ecological improvements,
  - unsubstantiated conclusions in the Statement of Community Involvement,
  - Internet speeds will drop,
  - The adjoining site owner, HIF sets out concerns that the layout of the scheme could restrict the ability to fully redevelop their site in the future,
  - Charter Medical Centre should have been formally consulted.
- 4.8. Two (2) representations have been received outlining the following comments on the application,
- The council should clarify that there is sufficient GP and school capacity,
  - Free bus passes should be available for new residents,
  - B&HCC bikeshare scheme should be expanded,
  - Community facilities should be provided in the scheme,
  - Commercial space should be reserved for SME's, local businesses, a level of new start-ups,
  - The affordable housing should be tenure blind,
  - A bus shelter should be provided,
  - Parking Permits should be prohibited for new residents,
  - Pay and display spaces should be converted to additional residents spaces,
  - Whilst broadly supportive of the plans to deliver housing the focus should be on providing social housing. There are also concerns in respect of the design, impact on neighbouring amenity, impact on services, quality of the build and size of the units, pollution and transport and parking pressures.
- 4.9. Councillor Jackie O'Quinn objects to the application. Representation attached.
- 4.10. Councillor Amanda Knight objects to the application. Representation attached.

## 5. CONSULTATIONS

### 5.1. **County Archaeology:** Comment

Based on the information supplied, I do not believe that any significant archaeological remains are likely to be affected by these proposals. For this reason I have no further recommendations to make in this instance.

### 5.2. **Arboriculture:** Comment

There is a steep partially-eroded embankment, with visible chalk to the south and east of the site. This is covered with early-mature and mature sycamore trees from about 3m above the road level and reach to approximately 20m above this.

As a group, these trees form an important green corridor for wildlife and form an important visual screen between the commercial buildings and the properties on Davigdor Road and Montefiore Road. They are also very important for the stability of the embankment. The majority of the trees have

healthy crowns, although a few trees have structural defects such as exposed roots from the eroding embankment, and these will need remedial works, such as crown reduction or felling. These issues have been highlighted within an arboricultural report sent with this application.

The majority of the trees that are a constraint to the site are not within it and grow upon embankments that surround it to the southern and eastern aspects. A total of eight trees have been proposed for removal, five for arboricultural reasons and three for the slope stability works. In addition T15 has been recommended for felling due to its close proximity and conflict with a new building. A few other trees require facilitation pruning to enable the development.

The arboricultural team believes that there will be future pressure to remove or heavily reduce trees post development due to the shade caused by the trees to the south and east of the development, and at a much elevated position high upon an embankment, especially to the eastern half of the development. However, this will be mitigated by proposed removal of eight trees and severing of ivy to the remainder of them.

The arboricultural team have no issues with these initial tree management proposals and recommend approval subject to tree protection, supervision and landscape conditions

5.3. **Sustainable Urban Drainage: Comment**

There are concerns that whilst the Flood Risk Assessment has identified that there is an area of “high” surface flood risk adjacent to the sites northern boundary associated with the low lying railway that the report also states that the surface water flood risk affecting the site does not emanate from an off-site flow path. However, the EA updated Flood Map for Surface Water shows a flow path across the site for a 1 in 1000 event. Additionally the topographic survey in Appendix B indicates that the running rail is higher than ground levels in the immediate area.

The northern boundary has what appears to be a solid wall which will inhibit the flow of any water from the railway line, it is not clear in the report how this hazard will be dealt with.

To discharge the requested condition the LLFA will require the applicant to provide;

- Appropriate calculations to demonstrate that the final proposed drainage system will be able to cope with both winter and summer storms for a full range of events and storm durations.
- The applicant should demonstrate the surface water drainage system is designed so that flooding does not occur on any part of the site for a 1 in

30 year rainfall event, and so that flooding does not occur during a 1 in 100 (+40% allowance for climate change) year event in any part of a building, as per the Non-statutory technical standards for sustainable drainage systems,

- The applicant will also need to provide a comprehensive maintenance plan for the drainage system in a formal maintenance plan. This should describe who will maintain the drainage, how it should be maintained and the frequency needed to monitor and maintain the system for the lifetime of the development. Examples of suitable maintenance plans can be found at [www.susdrain.org](http://www.susdrain.org).

5.4. **Ecology: Comment**

There are no sites designated for their nature conservation interest that are likely to be impacted by the proposed development.

The site is currently predominantly buildings and hardstanding and is of relatively low biodiversity value. The features of greatest biodiversity value are the trees along the south eastern boundary, the majority of which are to be retained. Given that it is proposed to add 83 trees to the site, the loss of five trees and part of a group of trees is acceptable.

It is noted that there is bat roost potential within the ivy of some of the trees that are to be removed.

In summary, provided the recommended mitigation measures are implemented, the proposed development is unlikely to have a detrimental impact on biodiversity and can be supported from an ecological perspective. Opportunities for enhancement of the site for biodiversity include wildlife friendly planting and the provision of wildlife boxes. Consideration should be given to provision of a green roof.

Further comments

In respect of the bat roost potential within the existing tree ivy the County Ecologist has noted in this case that an informative would be sufficient. This is based on the highly urban location of the proposal with no/limited connections to optimal bat habitat. Whilst there are records of bats from the local area, this primarily relate to low numbers of common species and not to roosts. As such, it is considered that the risk of bats being present is low.

In relation to the provision of bird boxes, these should target species of local conservation concern, such as starling, swift and house sparrow, all of which are listed on the Brighton & Hove Biodiversity Action Plan.

5.5. **Environmental Health: No objection**

The Noise Exposure Assessment produced by Ardent Consulting Engineers, Report Ref No. 173000-05, Project No. 173000 and dated May 2018 has been fully assessed.

This department uses a number of professional standards to assess internal noise levels and anticipate what measures (if any) may be necessary to protect end residents/users.

The report has made detailed reference to these and recommended design control measures to meet the recommended standards set out in table 4 of BS 8233: 2014 and the night time LAmax level recommended in the WHO's Night Noise Guidelines.

In table 7.2 of the noise exposure assessment, it is stated that in order to achieve the recommended internal noise levels, a higher specification of glazing and mechanical ventilation will be necessary for some units (see appendix C in the noise exposure assessment), whereas a lower specification of glazing and trickle ventilation will be sufficient for others. The EH Team agree with the findings and the recommended specifications.

However, it is noted that on the southern aspect of the development a number ground floor studio flats are proposed. These flats are located in close proximity to the car park entrance.

These proposed studio flats do not benefit from the higher specification glazing and mechanical ventilation. The acoustic report does not comment on any potential noise levels from the movement of vehicles coming in and out of the car park.

As such, in order to protect amenity of these units, I would recommend that the developer strongly considers extending the higher specification glazing and mechanical ventilation to all of the proposed residential units.

Since it is not possible to achieve suitable internal levels with the windows open, exact details and specification of the alternative ventilation methods should be supplied and it is recommended that this is ensured by attaching an appropriately worded condition.

The Ground Conditions Desk Study dated November 2017 Hydrock Ref: R/07253/001 and the Phase 2 Ground Investigation dated December 2017, Hydrock Ref: R/07253/002 has been examined.

With regards to the contaminated land Phase 2 Ground Investigation Report it appears that further intrusive testing and site walk over by a geotechnical engineer will be necessary before any ground works begin and this should be secured by condition.

The proposal is a significant development and site activities could generate large amounts of noise, dust and vibration.

As such, a detailed CEMP should be provided, clearly identifying how these issues will be managed so that the impact on neighbouring residents and businesses will be controlled as reasonably as possible. The CEMP should include reference to BS5228 and a commitment to make an application for a Section 61 agreement under the provisions of the Control of Pollution Act 1974.

Reference to calculations to determine whether the proposal is considered to be significant under BS5228 should be provided. A plan of how utilities providers should be managed to prevent continuous disruption to residents and businesses in this area should also be supplied.

5.6. **Economic Development: Comment**

5.7. Comments on original submission

CPP1 CP3.5 states loss of an unallocated site will only be permitted if it can be demonstrated to be redundant. The application does not demonstrate redundancy as

938sqm will be used for B1 floorspace therefore it is a loss of business floorspace as it's a reduction of the overall space and whilst the change of use from B8 to B1 is acceptable there is still a significant loss of B8 floorspace which serves the city.

It is noted that CPP2 is currently in a draft format and doesn't carry any weight, it does, however show the direction of travel the Council has.

The land at Lyon Close, Hove is a proposed Strategic Site Allocation in the CPP2.

According to SSA3 the redevelopment across the allocated site must be a minimum of 5,700sqm office floorspace and 300 residential dwellings. Whilst the proposed application is for 938 sqm of office space and 163 dwellings at the Peacock Industrial

Estate, the emerging aspiration is to secure 1,000sqm of employment land on this site. However the site currently employs 29 FTE across the warehouse buildings, and according to the OFFpat Employment Densities Guide 2010 B1(a) floorspace should provide 12sqm per FTE, therefore the new development has the potential to provide an employment density of at least 78 FTE.

This does meet the needs for B1a office space which is identified in the Employment Land Review.

Policy DM11 of the CPP2, states that development proposals involving the provision of new B1a,b and c should provide for well-designed layouts

suitable for incorporating a range of unit sizes that are flexible. Flexible design features are encouraged to provide future adaptability for a range of uses and occupants and business size to accommodate growth of businesses. This application has not demonstrated flexibility of design space, as it does not provide any further design information.

The Economic Development Team raise the question that whilst office space is the better fit in mixed use developments it is not necessarily reflective of the needs of the City's businesses.

#### Comments on revised scheme

City Regeneration has some adverse comments and suggested conditions regarding this application.

This revised application now proposes 2(sui generis) live / work units providing 46 sqm of employment space and a reduced employment floorspace of 739 sqm office accommodation (B1), providing 785 sqm in total rather than 938 sqm which was proposed in the original submission. City Regeneration regrets this revised scheme will deliver less employment floorspace than in the original 2018 submission.

A key point to highlight from our previous response to application BH2018/01738 is, "The land at Lyon Close, Hove is a proposed Strategic Site Allocation in the CPP2. According to SSA3 the redevelopment across the allocated site must be a minimum of 5,700sqm office floorspace and 300 residential dwellings. Whilst the proposed application is for 938 sqm of office space and 163 dwellings at the Peacock Industrial Estate, the emerging aspiration is to secure 1,000sqm of employment land on this site." City Regeneration notes that CPP2 is in draft format and carries limited weight but it does show the direction of travel the Council has.

Furthermore the applicant has not justified the additional loss of B1 floorspace. The revised Planning Statement says "The revised proposals reduce the proposed commercial office floorspace to 697 sqm (B1), reduction of 241 sqm. However the revised proposals also include 2 live / work units (sui generis) which contribute towards the provision of employment floorspace on the site. The office floorspace remains located within Block A at ground floor level. Being located within Block A the commercial floorspace is close to the main entrance to the site and will assist in creating activity in this area. The commercial units will have a dedicated entrance, separate to the residential units."

The schedule of commercial space differs slightly from the Planning Statement.

City Regeneration does acknowledge the new proposal includes provision of 2 live / work units. The Economic Strategy for Brighton & Hove finds the city is home to a greater concentration of homeworkers than any other UK city. In addition, CPP1 Policy CP2.3 recognises the need for a range of type and size of employment floorspace in the city to support the city's key employment sectors. City Regeneration would welcome clarification as to which sector the live / work element is targeted at and careful consideration will need to be given to rental values and length of tenure to ensure they are a viable option.

While the live / work elements are welcomed, City Regeneration still has concerns about the erosion of B1 office floorspace and the number of FTE jobs expected.

It is important to emphasise that there is a clear need for good quality employment floorspace in the city. The City Plan Part One is guided by City Council's Employment Land Study Review 2012, which identified growth requirements of 112,240m<sup>2</sup> of office (B1a, B1b) floorspace over the City Plan period. The city is ambitious in terms of its strategic growth objectives and commitment to ensure sufficient quantities of high-quality modern premises to meet economic output and jobs target (Employment Land Study, 2012).

Information on office availability indicates that current availability of office floorspace remains low and fairly static at c.15,800m<sup>2</sup> and sub 3.5% of total stock, a situation compounded by the loss of employment sites to residential through permitted development. Demand for Grade A office stock is high and rents are continuing to increase, with further increases predicted. (Stiles Harold Williams South East Focus – Q1 2019). A lack of office space will constrain the city's ability to retain its businesses as they grow and expand. Maximisation of employment floorspace / employment opportunities as part of this mixed use redevelopment is therefore important to help address identified future business needs.

Further to this, the site currently employs c.29 FTE jobs across the warehouse buildings and City Regeneration welcomed the proposed 100 FTE jobs in the original submission. According to the OffPAT Employment Densities Guidance approximately 58 FTE jobs would be expected to be created from 697 sqm of B1 floorspace or 65 FTE based on a total of 785 sqm, which includes 88 sqm of the work/ live units, City Regeneration is concerned that this is a significant loss when compared with the 100 proposed FTE jobs in the original submission and would therefore welcome clarification as to the proposed number of FTE jobs for this reduced amount of employment floorspace.

- 5.8. **Air Quality: No objection**  
On grounds of air quality approval is recommended.

The site is some distance from the nearest Air Quality Management Area.

Ambient air quality in this part of Hove is good and well within standards and guidelines for the protection of human health.

There are no plans for a combustion plant. When operating on site the proposed immersion heaters and solar PV array will not contribute emissions to air.

The Air Quality Officer is satisfied with CEMP recommendations put forward by Environmental Health and Transport.

- 5.9. **Heritage: No objection**  
As originally submitted:

The proposal is for the demolition of the existing buildings on the site and construction of four mixed use buildings ranging from five to ten storeys in height. The proposal includes residential units, office accommodation with associated car parking and landscaping of the site.

Due to the proximity of the site with the Willett Estate conservation area and the proposed height of the development, the proposal has the potential to cause harm to the setting of the nearby conservation area and a number of locally listed heritage assets and as such is assessed under HE6 of the Local Plan.

#### Willett Estate CA

Unfortunately, no strategic views have been provided from within the conservation area. However, due to the existing development to the immediate south-west of the site, it is unlikely that the development will have any significant impact on the setting of the Willett Estate conservation area.

#### Montefiore Hospital

The most prominent view of the former Hannington's Depository is from the eastern approach along Davigdor Road. As discussed above, the domed corner turret makes a prominent local landmark. It is unlikely that the proposal will have any significant impact on the setting of the locally listed building due to the existing height of the Hannington's Depository and the setback of the proposal from the rear of the locally listed building.

#### St Ann's Wells Garden

A strategic view from the tennis courts at St Ann's Wells Garden has been provided showing the approximate height of the proposal. The strategic view



provided shows that the proposal will be only just visible behind the existing P&H House to the immediate south of the site.

#### Dyke Road Park

A strategic view from the running track at the Dyke Road Park has been provided showing the approximate height of the proposal. The strategic view shows the proposal as white blocks, which does little to identify the actual impact from the locally listed park. However, the proposal clearly sits in context with the neighbouring skyline development and just above the existing vegetation of the park. Therefore, it is unlikely that the proposal would have any adverse impacts on the locally listed Dyke Road Park.

Despite the height of the proposal it is unlikely to have any adverse impacts on the neighbouring Willett Estate Conservation Area or the locally listed buildings within the vicinity of the site. The proposal meets the requirements of HE6 and HE8 and is unlikely to have any adverse impact on surrounding heritage assets.

#### Comments on the revised scheme

The additional information submitted on respect of the revised scheme has been reviewed and has raised no heritage objections. This comment should be read in conjunction with the initial heritage comments above.

#### 5.10. **Housing strategy / affordable housing: Comment**

The city-wide Housing Strategy adopted by Council in March 2015 has as Priority 1: Improving Housing Supply, with a commitment to prioritise support for new housing development that delivers a housing mix the city needs with a particular emphasis on family homes for Affordable Rent. The council has an Affordable Housing Brief based on evidenced housing needs in the city.

This response is provided by Housing Strategy & Enabling to outline where the scheme does and does not meet the council's Affordable Housing Brief and current policy CP20 regarding provision of affordable housing. CP20 requires 40% of properties to be developed as affordable housing on site in schemes of more than 15 units where viable.

Developers are required to prove where it is not viable for them to meet this policy provision. Housing will work positively with developers to answer housing need. At this scheme, affordable housing provision has been assessed as not viable as confirmed by an independent viability assessment commissioned by the council in line with Policy CP20. However, the developer has offered 16 homes for shared ownership sale.

Shared ownership housing is an accepted way to allow those who could not afford to purchase a home outright to get a foot on the ownership ladder. Latest figures from the Help to Buy Register show that more than 3,000

people have stated that they would like to buy a shared ownership property in Brighton & Hove (with 1897 of them living in the city). Of these the majority (69%) are interested in purchasing a one bedroom property, with 20% seeking two bedrooms and 10% three bedrooms or larger.

#### Tenure mix

Policy CP20 requires mixed tenure to be provided and the Affordable Housing Brief sets out a broad tenure split of 55% as Affordable Rent and 45% as affordable home ownership ie Shared Ownership sale, as a citywide objective. In this instance the affordable housing will all be provided as shared ownership.

Affordable Housing is expected to be provided through a Registered Provider from the council's Affordable Housing Delivery Partnership. The council expects shared ownership properties to be sold to people with a local connection to the city.

#### Design/ Wheelchair provision

Affordable housing units should be indistinguishable from market housing in the scheme's overall appearance. The scheme will be expected to meet Secure by Design principles. The Council's wheelchair accessible standard requires that it meets national technical standards Part 4 M (3) at build completion (i.e. fully wheelchair accessible at time of first letting/ sale). There should be 5% wheelchair accessible homes provided across the whole development.

#### Size of units

To ensure that all new homes developed are of a good standard that is flexible, adaptable and fit for purpose, our Affordable Housing Brief offers support for schemes that meet the new nationally described space standards. Wheelchair accessible units have required living space areas defined within the Building Regulations which should also be met.

#### Unit mix

Assessment of housing needs shows that although greatest need (numerically) is for smaller one and two bed properties there is significant pressure on larger family sized homes, and the affordable housing brief scheme mix is based on this requiring a balance of unit sizes. This would generally require a scheme with a mix of one bed, two bed and three bed homes.

The council's affordable housing brief currently asks for a mix of 30% 1 beds, 45% 2 beds and 25% 3 beds. This development overall has a higher proportion of smaller units. The affordable housing element may be adjusted to reflect the scheme mix.

As the units offered are all intended for shared ownership sale the mix of smaller 1 and 2 bed properties are acceptable.

Overall the scheme is supported by Housing based on the agreed viability assessment.

5.11. **Planning Policy: Comment**

The site is in current active employment use, but forms part of a larger area at Lyon Close which is proposed for allocation in CPP2 for residential-led mixed uses to provide a minimum of 300 residential units and 5,700 sqm B1a office space (of which 1,000 sqm is proposed for the application site). The principle of redevelopment for housing and supporting B1a office space would accord with the Council's aspirations for this site.

Taking account of other recent and proposed residential developments at Lyon Close, the 152 residential units proposed in the revised scheme would help to deliver the minimum 300 dwellings proposed in draft Policy SSA3. The site is well located for high density development and, given the city's housing requirement and the current supply position, the additional housing proposed should be supported, subject to complying with other planning policies.

The housing mix proposed in the revised scheme is heavily skewed towards 1 and 2 units, with only 8 3-bed units proposed (none of which would be affordable housing). There is potential conflict with Policies CP19 and SA6 which encourage developments to provide a housing mix that will help create mixed and sustainable communities. In addition, draft Policy SSA3 in criterion f) specifically seeks development at Lyon Close that "provides for a mix of dwelling type, tenure and size to cater for a range of housing requirements and improve housing choice".

The applicant is proposing 10% affordable housing which would be 100% shared ownership. This does not meet the 40% affordable housing target in Policy CP20 or the preferred tenure mix sought in the council's Affordable Housing Brief. However the applicant has submitted viability evidence which indicates that provision of affordable housing would not be viable and this has been agreed independently by the DVS. The affordable housing offered should therefore be supported, however it would be appropriate to include a viability review mechanism in a S106 agreement if the application is approved.

The development would also involve the loss of the existing c4,000 sqm employment space which is currently occupied. Only 697 sqm of B1a office floorspace (together with 2 live/work units) is proposed as part of the revised scheme which falls well short of the 1,000 sqm figure sought in the draft Policy SSA3. Since the application does not comply with Policy CP3 and

would not meet the Council's future aspirations for Lyon Close set out in the draft CPP2, the applicant should be requested to consider increasing the level of employment floorspace proposed.

#### Development proposal

The originally submitted proposal included 163 residential dwellings and 938 sqm of B1a use class floorspace in four blocks ranging from 5 to 10 storeys. The revised proposal has reduced the height of Block D from 10 to 8 storeys and increased Block C from 5 to 6 storeys, with some other revisions to the scheme layout and design. This has included reducing the residential provision to 152 units and the commercial floorspace to 697 sqm B1a office floorspace along with the addition two live/work units.

#### Principle of development

The application site is currently occupied by 2 large warehouse buildings (B8 use) which accommodate 3 trade counter businesses. There is also a large area of concrete hardstanding.

The site forms part of a wider allocation proposed in CPP2 Policy SSA3 for comprehensive mixed use redevelopment to deliver more effective and coordinated use of the whole site. Across the whole allocation, the draft policy seeks:

- The retention/replacement of a minimum 5,700 sq.m net B1a office floorspace, (including 1,000 sq.m at Peacock Industrial Estate);
- a minimum of 300 residential units;
- expanded D1 health facilities (GP surgery) and/or community use subject to demonstration of need and deliverability; and
- ancillary small scale retail uses.

In addition, the draft policy includes a number of site specific requirements (criteria a to g). These include that proposals relating to individual buildings/sites within the allocation should not prejudice delivery of the quantum of development and uses identified in the policy.

The Draft CPP2 was published for consultation under Reg 18 of the T&CPA for 8 weeks over Summer 2018. Although CPP2 carries limited weight at this stage of the planning process, Policy H2 indicates the Council's aspirations for the future development of the site for residential-led mixed use development.

#### Housing provision

The development would provide 152 residential units and two further live/work units in 4 blocks ranging in height from 5 to 8 storeys.

Draft CPP2 Policy SSA3 seeks delivery of a minimum of 300 residential units across the wider site proposed for allocation. Against this figure, 47 units have now been completed at 121-123 Davigdor Road (Artisan); 106-112 Davigdor Road (P&H House) has Prior Approval for change of use from offices (B1) to 57 residential units (C3); and 113-119 Davigdor Road has an extant planning permission for 68 residential units and is subject to a current application for 56 units. Taking account of these other developments, the addition of 152 units from this application would meet the housing requirement set in the draft policy.

The site is well located for high density development, having good access to local facilities and services including health, recreation, schools and utilities, and being well served by public transport on a regular bus route. Given the city's housing requirement and the current supply position, the additional housing proposed would be welcome and should be supported, subject to complying with other planning policies.

#### Housing mix and standards

The proposed housing mix would comprise 68 1-bed units (45%) (including 19 studio flats); 76 2-bed units (50%); and 8 3-bed units (5%). Policy CP19 does not set specific requirements for housing mix, but expects developments to provide an appropriate mix of housing type, size and tenure informed by local assessments of housing demand and need, whilst having regard to the characteristics of existing neighbourhoods and communities. Compared to the overall pattern of need/demand across the city set out in CPP1 (para 4.213) the proposed mix is strongly focused towards smaller 1 and 2 bed units. For the affordable housing element, the proposed mix is 7 1-bed (44%) and 9 2-bed units (56%). Policy CP20 sets a preferred affordable housing mix across the city of 30% 1-bed, 45% 2-bed and 25% 3-bed units.

A higher proportion of smaller units would be expected given the development format and location. However it is concerning that the scheme is proposing only 5% 3-bed units (compared against the city-wide requirement of 42% 3 and 4+ bed units in CPP1 para 4.213) and is proposing no 3-bed affordable units (compared to the 25% requirement in Policy CP20).

There is potential conflict with Policies CP19 and SA6 which encourage developments to provide a housing mix that will help create mixed and sustainable communities. In addition, draft Policy SSA3 in criterion f) specifically seeks development at Lyon Close that "provides for a mix of dwelling type, tenure and size to cater for a range of housing requirements and improve housing choice". The views of the Council's Housing officers should be sought on the affordable housing mix.

### Affordable housing

The application was supported by an Affordable Housing Viability Statement which concluded that no affordable housing would be viable. It is understood that this conclusion was agreed by DVS following their independent review. Subsequently the applicant has provided an updated Viability Assessment of the revised development proposals and this again concludes that no affordable housing would be viable, based on their own and DVS viability assumptions.

However, notwithstanding the above the applicant is proposing the provision of 10% affordable housing which would be 100% shared ownership. This would not achieve the 40% affordable housing target set in Policy CP20 or meet the affordable housing mix set out in the council's Affordable Housing Brief. Policy CP20 allows flexibility for a lower proportion/different tenure mix of affordable housing where this is supported by viability evidence. However, in this situation it would be appropriate to include a viability review mechanism in any S106 agreement to ensure that any future uplift in development values will provide for an improved affordable housing contribution.

### Loss of employment / employment provision

The application site is currently in employment use comprising 2 large warehouse buildings totalling c4,000 sqm B8 warehouse floorspace and accommodating 3 trade counter businesses. Policy CP3 states that loss of unallocated sites or premises in employment use (B1-B8) will only be permitted where the site or premises can be demonstrated to be redundant and incapable of meeting the needs of alternative employment uses (B1-B8). Where loss is permitted the priority for re-use will be for alternative employment generating uses or housing.

As noted previously, the emerging CPP2 is proposing to allocate Lyon Close for residential-led mixed use development, which would involve some loss of employment floorspace. Draft Policy SSA3 specifically seeks a minimum 1,000 sq.m B1a office space on this site. Criterion b) also specifies that proposals will be expected to contribute to the provision of a range of office and flexible workspaces, including medium floor plate offices and start up business floorspace.

The revised application proposals would provide only 697 sq.m B1a Office floorspace which would be located in Block A close to the entrance to the site. The units would be designed with flexibility to accommodate one large user or a number of smaller users with shared services. The revised scheme also includes 2 live/work units (sui generis) which would raise the total available employment floorspace to 785 sq.m. Based on the HCA published Employment Densities guide, the proposed B1a office space could

potentially accommodate around 50 FTE jobs (compared to the estimated existing onsite employment of 29 FTE jobs).

The office floorspace proposed as part of the revised scheme would be significantly less than the 1,000 sq.m figure sought in the draft Policy SSA3 and would also involve the loss of the existing c4,000 sq.m employment space which is currently occupied. The applicant has submitted a commercial market report by Stiles Harold Williams which indicates a high demand for office floorspace set against a lack of current availability, including for smaller office space. In addition, an Employment Study Report has been provided which suggests that the existing premises would be likely to generate limited interest from potential occupiers due to the location, poor quality of the buildings and the character of the surrounding area which is increasingly moving towards residential.

At present, the revised application does not comply with Policy CP3 and the proposed level of B1 office space would not meet the Council's emerging aspirations for Lyon Close as set out in draft Policy SSA3. The applicant should be requested to consider increasing the level of employment floorspace to align with the emerging Policy SSA3. It would also be helpful to provide clarification on the number of full time equivalent jobs that would be supported by the proposed B1 office space.

#### Design and amenity issues

The proposed design incorporates 4 blocks varying in height from 5 to 8 storeys incorporating a podium garden at the first storey. The tallest (8 storey) building reflects the higher surrounding elevations to the east of the site (Montefiore Road, the existing P&H building (7 storeys) and the permission for 8 storey residential development at 113-119 Davigdor Road.

The layout of the development aims to provide separation between each block to reduce the massing and visual impact and to enable landscaping between each block and in the northern area of the site. Landscaping is provided at both street level and the first floor residential gardens.

The applicant has not provided a separate Tall Building Statement, but has sought to address the checklist of requirements in SPG15 within the Design & Access Statement. This includes visual impact assessment of key strategic views and a sunlight and daylight assessment which considers the impact of the proposals on surrounding residential properties.

The revised scheme has reduced the height of Block D and re-oriented the building to reduce potential adverse amenity impact on the properties located on Lyndhurst Road. The detailed aspects of the design will need to be assessed against relevant development plan policies, including CP12 and CP14 and saved Policy QD27.

### Open space

The scheme will provide onsite landscaping and amenity space, including at podium (first floor) level between the buildings, on the western edge of the site primarily serving the employment units, and on the eastern and southern boundary of the site.

Financial contributions would be required towards off-site provision of open space and sports provision in line with Policies CP16 and CP17. The site is readily accessible within walking distance to St Ann's Well Gardens (720m) and Hove Green/Dyke Road Park (715m), both of which include equipped play areas and outdoor sports facilities.

## 5.12. **Sustainable Transport:** No objection

### Initial comments

The Highway Authority is unable to recommend approval at this time as further information is required to clarify arrangements and address various concerns:

- issues have been identified with the internal access and servicing arrangements.
- Insufficient information has been provided on how the development is intended to connect with the surrounding transport network.
- No assessment of the quality of local pedestrian, cycle and public transport infrastructure or the capacity of local bus services to accommodate demand generated by the development has been provided,
- The applicant acknowledges that some car parking demand would be expected to overspill but the availability of spare parking capacity to accommodate additional on-street parking demand locally has not been adequately demonstrated,
- As currently submitted, the application does not demonstrate that safe and suitable access to the site for all users can be achieved, nor that appropriate opportunities to promote sustainable transport modes will be taken up. The proposed development is therefore contrary to paragraph 108 of the National Planning Policy Framework.

### Final comments on revised scheme

Further to extensive discussions with the applicant (and various amendments to their proposals) we are now in a position to recommend that this application be approved, subject to various conditions and obligations.

The following points are a summary of the application,

- the matter of potential parking overspill has been addressed. The applicant has accepted that there are issues with the submitted parking survey that raise legitimate concerns but – rather than responding to these – has accepted the imposition of a condition restricting residents from being eligible for CPZ permits. Resident entitlement to visitor permit will similarly be reduced from 50 to 25 per year for each household. Given the



low parking provision and restricted off-site entitlement we recommend that 2 or more off-site car club bays are secured in the vicinity of the site to meet the occasional needs of residents for access to cars.

- concerns about the arrangement of the proposed shared surface private street (particularly in relation to deliver and service vehicle movements) have been addressed by various meaningful changes. These including redesigning the loading areas so that service vehicles no longer need to reverse across pedestrian space and to reduce the need for demountable bollards. Whilst there are still some residual concerns such as the absence of appropriate delineation to pedestrian areas, we are satisfied that they can be resolved through appropriately worded conditions.
- concerns about how the site connects with other streets and neighbouring developments have been addressed by proposed changes at the site interface. These will see the existing southern footway of Lyon Close widened and extended into the site, from where an informal crossing will be provided to allow people on foot to access the main pedestrian only area within the development. These minor highway works will be secured through a section 278 agreement. A section 106 'sustainable transport contribution' is also recommended to fund other off-site improvements to pedestrian and cyclist facilities in the vicinity to support the increased number of trips by foot and bike. These should include works to narrow and improve the junction of Lyon Close and Davigdor road, which will be facilitated by the substantial reduction in large vehicle movements that this redevelopment of the trading estate will bring about.
- Whilst some concerns remain about the layout of internal and external (visitor) cycle parking, the changes made have satisfied us that enough spaces of sufficient quality can be achieved with some further adjustments – particularly given the exemplary use of near 100% universally accessible Sheffield stands. This can be achieved through a suitably worded condition.

5.13. **Sustainability: Comment }**

The residential parts of the proposals are expected to meet Energy efficiency standards of a 19% reduction in CO2 emissions over Part L Building Regulations requirements and Water efficiency standards of 110litres/person/day.

The non-residential parts of the scheme are expected to meet BREEAM Excellent as part of a major development.

The approach to meeting the carbon reduction requirements of CP8 is primarily to install a solar PV array onto the residential part of the development. The approach means that occupiers will not benefit directly from the installed low and zero carbon technologies beyond a reduction in communal supply running costs (which potentially results in reduced management charges).

The residential dwellings incorporate MVHR and electric panel heaters for space heating and immersion heaters for hot water. These technologies

mean that the development is very unlikely to ever connect, or make a contribution to, a low or zero carbon decentralised energy scheme. A more suitable system would include a wet distribution system for heating and hot water. This is detailed further in CPP2 DM48.

The application indicates that the development will only achieve BREEAM Very Good standard, which falls short of the requirement under CP8 and should be sought for the development. BREEAM pre-assessments have not been submitted for the non-residential part of the scheme. It is recommended that a pre-commencement condition be applied in this case securing the Design stage certificate, demonstrating that the required standard can be met.

Water efficiency measures are met by flow restrictors and low-flush WCs. It is indicated that the target of 110litres/person/day will be met.

With the exception regarding the non-residential BREEAM criteria, noted above, the application demonstrates an ability to do the minimum to meet planning requirements without offering anything in excess of this minimum. Moreover, more information could be provided regarding the energy/water measures policies mentioned in 2d, 2f, 2m, 2n and 2p. This additional detail would provide greater confidence that the development would meet the council's ambitions for sustainable buildings.

5.14. **Scottish Gas Networks:** No objection

5.15. **Southern Water:** No objection

No objection subject to conditions to ensure that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development and also measures to protect the public water supply main.

5.16. **Sussex Police:** comment

The development consists of 4 blocks, A-D. Block A is a mixed use block with offices on the ground, office and dwellings share the first floor and only dwellings on the remaining floors. Blocks B-D are all residential dwellings. There is a podium at first floor level with gardens and landscaping located upon it, with parking refuse cycle stores and dwellings underneath on the ground floor. This area has gated entry. There are multiple entrances on the ground floor, podium floor and car parking area that all lead into the block. Access control will be essential to maintain a safe and secure environment for the residents. To this end, consideration should be given to minimising the number of entrances into the blocks thus reducing the opportunity for unauthorized entry. Compartmentalisation will need to be implemented throughout all 4 blocks promoting a streetscape that is designed to be a pedestrian priority environment for all public users. The Design and Access Statement states; The spaces will be legible and designed in such a way to

allow the freedom of movement, operations and activity to support the everyday functions of the residents and commercial users of the site.

Whilst this design creates a free zone for all to utilise, it also removes any private space for the residents. It creates excessive permeability to the development to the advantage of a would-be offender who would then have legitimate reason for accessing the development. Members of the public would act as capable guardians to a degree in some of the areas, but there is no private amenity space for the residents and many opportunities to gain access into the residential buildings.

5.17. **Artistic Component:** comment

Adopted City Plan Policy CP5 supports investment in public realm spaces suitable for outdoor events and cultural activities and the enhancement and retention of existing public art works; CP7 seeks development to contribute to necessary social, environmental and physical infrastructure including public art and public realm; and CP13 seeks to improve the quality and legibility of the city's public realm by incorporating an appropriate and integral public art element.

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

This is arrived at after the internal gross area of the development (in this instance approximately 15,554 sqm) is multiplied by a baseline value per square metre of construction arrived at from past records of Artistic Component contributions for this type of development in this area. This includes average construction values taking into account relative infrastructure costs.

It is suggested that the Artistic Component element for this application is to the value of £62,000.

As ever, the final contribution will be a matter for the case officer to test against requirements for s106 contributions for the whole development in relation to other identified contributions which may be necessary.

To make sure that the requirements of Policies CP5, CP7 and CP13 are met at implementation stage, it is recommended that an Artistic Component schedule be included in the section 106 agreement.

5.18. **Education:** comment

In this instance we will not be seeking a contribution in respect of primary education as we have sufficient primary places in this area of the city for the foreseeable future. We will however be seeking a contribution in respect of secondary and sixth form education of £122,412.80 if this development was

to proceed. The development is in the catchment area for Blatchington Mill and Hove Park Schools. Both of these schools are currently full and therefore it is entirely appropriate to seek a contribution in this respect. A contribution for the studio units has not been sought as it is highly unlikely that there would be any school age pupils generated by these units.

5.19. **NHS Clinical Commissioning Group: comment**

Practices across the city are under considerable pressure and any increase in the local population will increase this pressure, however marginally. The CCG is unable to predict whether or not the proposed development will negatively affect local practices, as they are independent businesses and will be better placed to assess their current and future capacity.

## 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);
- 6.3. East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.4. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP3	Employment land
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

Brighton and 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
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE10	Buildings of local interest

Supplementary Planning Guidance

SPD14	Parking Standards
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Supplementary Planning Documents

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

Further Guidance:

Affordable Housing Brief (December 2016)

Developer Contributions Technical Guidance (March 2017).

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the principle of the use including the loss of employment space, financial viability and affordable housing provision, the impacts of the proposed development on the visual amenities of the site and surrounding area. The proposed access arrangements and related traffic implications, impacts upon amenity of neighbouring properties, standard of accommodation, housing mix and

density, ecology, sustainable drainage, arboriculture and sustainability impacts must also assessed.

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).
- 8.4. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation, 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. **Principle of Development:**  
The site is in current active employment use, but forms part of a larger area at Lyon Close which is proposed for allocation in CPP2 for residential-led mixed uses to provide a minimum of 300 residential units and 5,700 sqm B1a office space (of which 1,000 sqm is proposed for the application site). The principle of redevelopment for housing and supporting B1a office space would accord with the Council's aspirations for this site.
- 8.6. The Draft CPP2 was published for consultation under Reg 18 of the T&CPA for 8 weeks over the Summer of 2018. Although CPP2 carries limited weight at this stage of the planning process it does indicate the Council's aspirations and the direction of policy for the future development of the site for comprehensive residential-led mixed use development.
- 8.7. Taking account of other recent and proposed residential developments at Lyon Close, the 152 residential units proposed in the revised scheme would help to deliver the minimum 300 dwellings proposed in draft Policy SSA3. The site is well located for high density development and, given the city's housing requirement and the current supply position, the proposed housing is supported, subject to complying with other planning policies.

- 8.8. The site has been included in the 2018 annual review of the council's Strategic Housing Land Availability Assessment (SHLAA) published in February 2019 as having potential for 120 residential units and again this gives further weight to the proposed provision of housing on the site.
- 8.9. Overall the principle of redevelopment with a significant quantum of housing would accord with the Council's aspirations for this site.
- 8.10. Employment:**  
The application site is currently in employment use. This comprises of 2 large warehouse buildings (B8) totalling c4,000sqm of floorspace and accommodating 3 trade counter businesses. Policy CP3 states that the loss of unallocated sites or premises in employment use (B1-B8) will only be permitted where the site or premises can be demonstrated to be redundant and incapable of meeting the needs of alternative employment uses (B1-B8). Where loss is permitted the priority for re-use will be for alternative employment generating uses or housing.
- 8.11. As noted previously, the emerging CPP2 is proposing to allocate Lyon Close for residential-led mixed use development, which would involve some loss of employment floorspace. Draft Policy SSA3 specifically seeks a minimum 1,000 sqm B1a office space on this site. Criterion b) also specifies that proposals will be expected to contribute to the provision of a range of office and flexible workspaces, including medium floor plate offices and start up business floorspace.
- 8.12. The revised application proposals would provide only 697 sqm B1a Office floorspace which would be located in Block A close to the entrance to the site. The units would be designed with flexibility to accommodate one large user or a number of smaller users with shared services. The revised scheme also includes 2 live/work units (sui generis) which would raise the total available employment floorspace to 785 sqm. Based on the HCA published Employment Densities guide, the proposed B1a office space could potentially accommodate around 50 FTE jobs (compared to the estimated existing onsite employment of 29 FTE jobs).
- 8.13. The office floorspace proposed as part of the revised scheme would be significantly less than the 1,000 sqm figure sought in the draft Policy SSA3 and would also involve the loss of the existing c4,000 sqm employment space which is currently occupied. The existing warehouses are fully occupied and as such the applicant cannot demonstrate redundancy in accordance with policy CP3.
- 8.14. The applicant has submitted an Employment Study Report which suggests that the existing premises would be likely to generate limited interest from potential occupiers due to the location, poor quality of the buildings and the character of the surrounding area which is increasingly moving towards residential.

- 8.15. Notwithstanding the submitted report, whilst the buildings will require some investment in the future they are currently fully let and it does not appear likely that interest in the units will fall away significantly in the near future.
- 8.16. At present, the revised application does not comply with Policy CP3 and the proposed level of B1 office space would not meet the Council's emerging aspirations for Lyon Close as set out in draft Policy SSA3. Concerns have been raised by the Planning Policy Team and the Economic Development Team who consider the employment space provision to be deficient.
- 8.17. Although it is acknowledged that the proposed office space will provide an attractive offer with a flexible layout in a modern development and has the potential to deliver an increase in employment spaces over and above the existing warehouse floorspace it would still provide significantly less floorspace than existing and this weighs against the scheme, contrary to CP3.
- 8.18. Whilst this shortfall is regrettable, it is acknowledged that the provision of a greater amount of commercial floorspace would likely have to come from a reduction in the residential floorspace further eroding the viability of the scheme. It is considered that in this instance an exception to policy can be considered in order to achieve a deliverable housing-led mixed use scheme in line with the council's future aspirations for the site.
- 8.19. Design and Appearance and Townscape Impact:**  
The proposed scheme as amended consists of 4 main blocks set on a raised podium level which contains the vehicle and cycle parking, bin stores and also a number of the residential and live / work units. There are landscaped communal areas between the four blocks. Block A, to the west of the site is 7 storeys in height, the two central blocks (B and C) are 6 storeys in height and Block D to the west of the site is 8 storeys in height. The scheme is predominantly finished in brick with inset balconies throughout.
- 8.20. The main revisions to the scheme include the reduction of height of Block D by two storeys and design changes to create a slimmer profile and an additional storey to Block C.
- 8.21. As the scheme contains buildings in excess of 18m (approximately 6 storeys above existing ground level) the Supplementary Planning Guidance on Tall Buildings (SPG15) Buildings is relevant and a Tall Building Statement is required. This site is not in an identified tall buildings node or corridor, and so tall buildings are considered based on the impact of the wider townscape. Visuals of the longer distance views of the development are required to enable a fuller appreciation of the likely resultant townscape.
- 8.22. The existing built form on the northern side of Davigdor Road includes the 8 storey housing block at 121-123 Davigdor Road and the office block P & H House which again is the equivalent of 8 residential storeys. There is also an extant planning permission for an 8 storey block at 113-119 Davigdor Road. Whilst not a location specifically allocated for tall buildings this stretch of



Davigdor Road is characterised by taller buildings and the principle of taller buildings and a more dense built form at the application site is accepted, subject to the usual planning considerations.

- 8.23. At 8 storeys the tallest block (Block D) in the revised scheme would be comparable to the height of the main bulk of P&H House and below the lift overrun element of this building. Due to the location of the application site, set back from Davigdor Road and with the railway embankment and the terraced properties behind the built form would not be highly prominent in views from the public realm other than from the east and west from Holland Road and Montefiore Road bridges.
- 8.24. The applicants Tall Buildings Statement provides views from the following locations;
- Montefiore Road Bridge (north side) looking south west,
  - Holland Road Bridge looking east,
  - St Ann's Well Gardens looking north,
  - Dyke Road Park looking south,
  - Somerhill Road looking north
- 8.25. Whilst there would be a significant change in the built form from the existing situation in views from the east and west, the proposed development would be experienced in the context of the higher density development to the south and is not considered to be significantly harmful to the character of the area.
- 8.26. Whilst the proposal would be a very different scale, form, and massing to the traditional terraced housing to the north it is considered that there is sufficient visual separation provided by the railway line and embankment to ensure that the proposal does not significantly jar with or visually overwhelm the existing properties. The staggered siting of the four blocks and the predominantly north south orientation ensure that there is a degree of permeability of light and outlook through the scheme and reduces the sense of massing from the north. The variation in the heights of the blocks provides further visual interest to the scheme.
- 8.27. Whilst the proposal would be visible in longer views from the north from the locally listed Dyke Road Park it is not considered to have a harmful impact in heritage terms. Furthermore, there is not considered to be any harm to the locally listed Montefiore Hospital, locally listed St Ann's Well Garden Park to the south or the setting of the Willett Estate Conservation Area to the west and the Heritage Team do not object to the application.
- 8.28. At over 150 dwellings a hectare for the site as a whole the proposal would result in a high density form of development, though in the context of the taller buildings to the south it is not considered to be out of character to the area and would accord with policy CP14 in respect of density.
- 8.29. In respect of the materiality and architectural detailing the external facades will predominantly consist of three shades of red multi-stock brick (light, mid and dark) which will be used to differentiate the main facades, side facades and the side panels. The fenestration and balconies will be set out in a rigid grid

pattern with the inset design providing some relief to the elevations. The grey perforated metal inserts to the façade and grey metal balcony railings provide further visual interest. The two taller buildings (A and B) show two storey grouped vertically to accentuate the height rather than the horizontal mass of the buildings.

- 8.30. Further perforated metal is proposed throughout at ground floor level. These metal facades are not especially convincing as a design approach and the spaces between the main blocks and the large expanse to metal cladding to the rear have a somewhat stark utilitarian appearance that do not sit comfortably with the rest of the more residential approach of the scheme. Notwithstanding the above the main extent of the metal frontages are set back from the main 4 block frontages and not highly visible from the public domain and as such do not significantly detract from the visual amenity of the development as a whole. There may also opportunities to green the rear façade of the podium which would soften its impact and further details can be secured by condition.
- 8.31. Overall the proposal is considered to have an acceptable impact on the appearance and character of the site and the wider surrounding area.
- 8.32. Landscaping:  
A full landscaping plan has been submitted with details of the podium level amenity space and the also the more public areas to the south of the built form along the access road. The proposal would provide a significant increase in the greening of the site in comparison to the existing situation. Subject to high quality materials, appropriate painting and maintenance which will be secured by condition the landscaping proposals are considered to be acceptable in accordance with development plan policies.
- 8.33. Viability and Affordable Housing:**  
Housing affordability is a major issue for many residents within the City. Policy CP20 of the CPP1 relates to affordable housing on windfall sites and states that on sites providing 15 or more (net) dwellings (including conversions/changes of use) 40% onsite affordable housing provision is required.
- 8.34. Whilst the original application submission set out that the scheme was aiming to provide 40% affordable housing (as shared ownership) a Viability Appraisal was subsequently submitted by the applicant that set out that the scheme could not viably provide any level of affordable housing. The applicant's viability assumptions have been independently tested by the District Valuer Service (DVS) and whilst they do not agree with all of the inputs in the applicant's appraisal they are also of the opinion that the scheme cannot viably support any affordable housing whilst retaining a reasonable developer profit.
- 8.35. Subsequently the applicant has provided an updated Viability Assessment of the revised development proposals and this again concludes that no

affordable housing would be viable, based on their own assumptions and this has again been verified independently by the DVS.

- 8.36. Notwithstanding the above the applicant has set out that it has taken a commercial decision to achieve a reduced profit level in order to provide 10% affordable housing as shared ownership. This follows the sentiment of Paragraph 64 of the National Planning Policy Framework (NPPF) which states, 'Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership'. The offer equates to 16 units at the following mix.
- 3 Studios
  - 4 one bed units
  - 9 two bed units
- 8.37. Whilst the highest need is for affordable rent rather than shared ownership affordable housing the LPA is mindful that they could not require any level of affordable housing for this scheme when considering the viability outcomes and as such the proposed tenure is accepted. It is further noted that the proposed mix which includes studios (which are not identified as unit type that is needed) and also lacks any three bed units does not accord with Policy CP20 which sets a preferred affordable housing mix across the city of 30% 1-bed, 45% 2-bed and 25% 3-bed units. Again, as it has been demonstrated that the scheme cannot viably provide affordable housing the LPA does not object to the mix in this instance.
- 8.38. A review mechanism is proposed to be included as an obligation in the legal agreement to ensure that the viability of the scheme is reappraised at a later date when actual costs and values are known and if there is any uplift in the development value, a proportion of this can be captured as a financial contribution.
- 8.39. Impact on Amenity:**
- 8.40. 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.
- 8.41. The main impacts will be to the adjoining properties to the rear of the site, to the north of the railway on Lyndhurst Road and to the west on Montefiore Road and also to the recently built Artisan development to the south of the site on Davigdor Road.
- 8.42. A sunlight and daylight assessment by Point 2 Surveyors was included with the original application submission for the 163 unit scheme. The Council has commissioned an independent review of this assessment which was completed by the Building Research Establishment (BRE). In respect of the impact on neighbouring properties for the originally submitted scheme the BRE stated,

- 8.43. 'Given the size and height of the new development, the overall daylight and sunlight impact on surrounding dwellings is relatively limited. This is partly because of the site topography, with the new development situated in a valley, below the level of most of the surrounding housing.
- 8.44. There would be a loss of daylight outside the guidelines to some windows at 4-6 Montefiore Road. However the loss of light is in most cases either only just outside the guidelines, or the rooms have another window that would either be unaffected or less affected. The worst affected rooms would be bedrooms. There is also a belt of mature trees outside the windows, not included in the calculations which already blocks some of the light that the new development would obstruct. For these reasons the loss of daylight is assessed as minor adverse.
- 8.45. There may also be minor impacts to a small number of windows at 6, 12 and 18 Lyndhurst Road, 121-123 Davigdor Road and the proposed dwellings at 113-119 Davigdor Road.
- 8.46. Loss of daylight to all other dwellings would be within the BRE guidelines and could be classed as negligible.
- 8.47. For the houses in Lyndhurst Road, which face a southerly direction, loss of sunlight, would be within the BRE guidelines. The other nearby dwellings face within 90 degrees of due north, and therefore loss of sunlight to windows would not be an issue.
- 8.48. Loss of sunlight to existing gardens in Lyndhurst Road would be within the BRE guidelines.'
- 8.49. Since the scheme was reviewed by the BRE the design of Block D has been amended and has a slimmer profile, which has brought some of the massing away from the neighbouring properties on Lyndhurst Road and Montefiore Road and the height has been reduced by two storeys. This has further reduced any impact on neighbouring properties in respect of loss of daylight or sunlight and overall the application is acceptable in this regard. Whilst the height of Block C has been increased by a storey it would still sit two storeys below Block D and this alteration is not considered to have resulted in any significantly increased impact on neighbouring properties in respect of sunlight and daylighting in comparison to the originally submitted scheme.
- 8.50. The applicant has submitted a revised sunlight and daylight study which assesses the alterations to Block D and confirms that the amended scheme would have a reduced impact on the light levels to adjoining properties in comparison to the originally submitted scheme.
- 8.51. The revised scheme has significantly reduced the scale and bulk of Block D in relation to neighbouring properties. Whilst Block C has increased by a storey it is still the lowest block along with Block B. Whilst the scheme as a whole will result in a significant change to the outlook to the adjoining properties to the north and will appear as a visually dominant collection of buildings it is not considered that it would result in a significant sense of enclosure or an

overbearing impact that would warrant refusal of the application. The design of the development with four separate blocks ensures that there will be some permeability of light and views through the scheme from north to south.

- 8.52. Due to the height of the blocks and their siting which is in relatively close proximity of neighbouring properties and their respective gardens there will inevitably be a degree of overlooking, both perceived and real from windows and terraces to neighbouring properties. The angled elevations on the scheme provide some mitigation, reducing the expanse of the facades that directly abut neighbouring properties, especially to the rear. Views would in some cases be screened by existing tree or shrub cover and would also be separated in many cases by the railway line to the north and the proposed access road to the south. The potential loss of privacy has been thoroughly assessed and is not considered to be so significant as to warrant refusal of the application.
- 8.53. Whilst the proposal would generate a certain amount of noise from communal and private amenity areas within development and the usual comings and goings including vehicular movements that you would expect from a residential development of this scale it is not considered that any potential noise disturbance would be significant.
- 8.54. The submitted Noise Exposure Assessment has considered the impact of train noise reflecting off the proposed buildings facades towards neighbouring properties to the north and state that train noise after the development has been completed, is expected to be comparable with current noise levels, with no significant change.
- 8.55. Standard of accommodation:**  
Whilst the Local Planning Authority does not have adopted space standards, for comparative purposes the Government's Technical Housing Standards – National Described Space Standards March 2015 document sets out recommended space standards for new dwellings.
- 8.56. All of the proposed units have been designed to accord with the Nationally Described Space Standards and are generally considered to provide acceptable levels of amenity in regards to the size, layout and circulation space. It is noted that some of the studio flats have layouts which are compromised with semi enclosed kitchens and half height divisions which restrict light penetration and circulation space to the detriment of future occupiers. Whilst this is disappointing the studios are considered to provide an adequate standard of accommodation.
- 8.57. The majority of the flats have external amenity space in the form of a balcony or garden space, with additional access to the communal podium level gardens and as such the proposal accords with saved policy HO5 in regards to private amenity space.
- 8.58. There will be a significant level of mutual overlooking between the windows and balconies of the respective blocks, the external communal areas and also

views afforded from neighbouring properties. Whilst this will impact the privacy of future residents there will inevitably be a certain degree of overlooking in a scheme of this density and overall the scheme is considered to be acceptable in this regard. The ground floor south facing units are all single aspect and front onto the main accesses to the development and will also be compromised in respect of privacy, though this is not considered to result in a significant detrimental impact for future residents and is not considered to be sufficient to justify refusal of the application

- 8.59. The originally submitted sunlight and daylight report (for the 163 unit scheme) provided an assessment of the sunlight and daylight that would be achieved in the proposed units and also the sunlight within the communal areas. This information was reviewed by the BRE. Concerns were raised in respect of the daylight and sunlight provision within the scheme with 15% of the living/kitchen/dining rooms below the BRE standard of 1.5% average daylight factor. Furthermore only 27 out of 86 living rooms (31%) achieve the BRE standard for sunlighting. The main factor impacting sunlight and daylight was the inset balconies which restricted light into what are often deep kitchen / living / diners. In the revised scheme the balconies were relocated to the bedrooms which has improved the sunlight and daylighting overall. The reorientation of block D has also improved sunlight / daylight provision. A revised sunlighting and daylighting report confirmed that the alterations to the layout resulted in improved daylighting to the main living area and overall the scheme is considered to provide adequate daylighting for future occupiers.
- 8.60. Sunlight provision would meet the BRE guidelines within the external communal amenity areas.
- 8.61. The applicant has submitted a Noise Exposure Assessment which assesses potential noise impacts for future occupiers. This includes the impact of the railway line to the north and also noise from commercial operators in the vicinity, which includes a loading and delivery area for the retail sheds to the west of the site. The report concludes that specific noise reduction measures are required to achieve adequate noise mitigation and specific measures will be required by condition. Further measures are also proposed, to include upgraded soundproofing beyond building regulations between residential and commercial units and also for residential units adjacent to noise generating uses, eg. refuse and cycle stores, plant rooms and the vehicular parking entrance. Subject to the appropriate mitigation the proposed residential units are considered to provide acceptable living conditions in respect of the potential for noise disturbance.
- 8.62. HO13 requires 5% overall of all residential units in large scale schemes to be wheelchair accessible. A number of larger units have been provided and such provision can be secured via a condition.
- 8.63. Overall the standard of accommodation is considered to be acceptable in accordance with saved policy QD27.
- 8.64. Housing Mix:**

Policy CP19 relates to housing mix and states it should be demonstrated that proposals have had regard to housing mix considerations and have been informed by local assessments of housing demand and need.

- 8.65. Including the residential element of the two live/work units the proposed housing mix of the scheme as amended would comprise of the following;
- 21 x studio (14%)
  - 49 x one bed (32%)
  - 76 x two bed (50%)
  - 8 x three bed (5%)
- 8.66. Policy CP19 does not set specific requirements for housing mix, but expects developments to provide an appropriate mix of housing type, size and tenure informed by local assessments of housing demand and need, whilst having regard to the characteristics of existing neighbourhoods and communities. Compared to the overall pattern of need/demand across the city set out in CPP1 (para 4.213) the proposed mix is strongly focused towards smaller 1 and 2 bed units.
- 8.67. A higher proportion of smaller units could be expected given the development format and location. However it is concerning that the scheme is proposing only 5% 3-bed units (compared against the city-wide requirement of 42% 3 and 4+ bed units in CPP1 para 4.213). Furthermore CPP1 does not set out a specific need for studio flats and the proposed level of this provision is also disappointing.
- 8.68. There is potential conflict with Policies CP19 and SA6 which encourage developments to provide a housing mix that will help create mixed and sustainable communities. In addition, draft Policy SSA3 in criterion f) specifically seeks development at Lyon Close that “provides for a mix of dwelling type, tenure and size to cater for a range of housing requirements and improve housing choice”.
- 8.69. Whilst the proposed housing mix, which is overly skewed towards smaller dwellings weighs against the scheme when the proposal is assessed in its totality, with the significant benefits of the housing units being provided and consideration of the marginal viability of this specific scheme which would be compromised further with a higher percentage of larger units it is not considered to be so significant as to warrant refusal of the scheme.
- 8.70. Sustainable Transport:**  
National and local planning policies seek to promote sustainable modes of transport and to ensure highway safety. In accordance with paragraph 109 of the National Planning Policy Framework, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The NPPF states that the use of sustainable modes of transport should be pursued (paragraph 102). Policy CP9 c) of the Brighton and Hove City Plan Part One is relevant as are Local Plan policies TR4 (Travel Plans), TR7 (Safe Development), TR14 (Cycle

Access and Parking) and TR18 (Parking for people with a mobility related disability).

- 8.71. The impact of the proposal in terms of increased traffic, highway safety and parking pressure is cited as one of the main objections by local residents.
- 8.72. The application contains a detailed Transport Assessment and Travel Plan. In respect of trip generation the proposal will result in a slight reduction of vehicular trips in comparison to the existing commercial operations and as such it is not considered that resident's concerns in respect of increased congestion would materialise and the proposed impact on the road network is considered acceptable.
- 8.73. There will be an increase in trips via sustainable modes (cyclists and pedestrians) and a sustainable transport contribution will be requested to address impacts in respect of these additional trips and associated safety issues and will include improvements to the junction of Lyon Close with Davigdor Road.
- 8.74. A total of 80 parking spaces are proposed, comprised of 78 spaces within the undercroft car park (including eight disabled spaces which accords with the number of wheelchair accessible units) and two disabled spaces near the proposed office entrance at the south-western corner of the site. The parking provision is considered to be acceptable in principle with further details required in the form of a Car Park Management Plan.
- 8.75. The Transport Team have raised some concerns in respect of the submitted parking survey and consider that overspill parking is likely to be greater than estimated and that on-street capacity within the surround CPZ zone may not be sufficient to accommodate this. As such a condition is proposed which would restrict future occupiers from obtaining permits. It is considered that the proposed parking permit condition in conjunction with the existing parking controls in the surrounding area would be adequate to ensure that there would not be any significant adverse impact in respect of overspill parking and pressure on existing street parking provision in the locality.
- 8.76. Measures in the Travel Plan to be secured by condition would also further increase travel by sustainable modes.
- 8.77. Cycle parking includes 174 spaces for the residential, commercial and visitors in the form of Sheffield stands and this provision accords with SPD14.
- 8.78. Following further discussions with the applicant during the life of the application there have been revisions to the access, layout and servicing arrangements. The scheme as revised is considered to be acceptable in principle and would ensure a safe development. Further information, including the following plans will be secured either by condition or planning obligation.
- Construction & Environmental Management Plan
  - Car Park Management Plan
  - Refuse & Recycling Management & Collection Plan
  - Delivery & Service Management Plan



- 8.79. Subject to the proposed conditions and developer contributions / obligations the scheme is considered to be in accordance with development plan policies in respect of the transport impacts.
- 8.80. **Sustainability:**  
City Plan policy CP8 requires that all developments incorporate sustainable design features to avoid expansion of the City's ecological footprint, radical reductions in greenhouse gas emissions and mitigate against and adapt to climate change. The policy specifies the residential energy and water efficiency standards required to be met, namely energy efficiency standards of 19% reduction in carbon emissions over Part L Building Regulations requirements 2013 and water efficiency standards of 110 litres per day and conditions are proposed to secure these standards. A further condition is proposed to secure a BREEAM rating of excellent for the B1 office element of the scheme.
- 8.81. **Sustainable Urban Drainage:**  
Whilst the Local Lead Flood Authority has raised some concerns in respect of the submitted flood risk information they are satisfied that the proposed condition which required additional flood risk modelling and a management plan will be sufficient to ensure that the scheme can adequately deal with any future flood risks in accordance with development plan policies.
- 8.82. **Arboriculture:**  
To the south east of the site is an embankment that rises up steeply from the ground level of the site covered with early-mature and mature sycamore trees.
- 8.83. As a group, these trees form an important green corridor for wildlife and form an important visual screen between the commercial buildings and the properties on Davigdor Road and Montefiore Road as well as providing the stability of the embankment.
- 8.84. A total of 8 trees are recommended for felling for either arboricultural reasons or due to their close proximity to the proposed development.
- 8.85. The arboricultural team have no issues with these initial tree management proposals and recommend approval subject to tree protection, supervision and landscape conditions and overall the application is considered acceptable in this regard.
- 8.86. **Ecology:**  
There are no sites designated for their nature conservation interest that are likely to be impacted by the proposed development.
- 8.87. The site is currently predominantly buildings and hardstanding and is of relatively low biodiversity value. The features of greatest biodiversity value are the trees along the south eastern boundary. Given that it is proposed to add

83 trees to the site, the loss of 8 existing trees is acceptable. Further nature enhancements to the scheme will be secured by condition and overall the proposal is considered to be in accordance with development plan policies.

**8.88. Other Considerations:**

There have been a number of representations from local residents outlining concerns that the proposal would result in greater stress on essential services such as Doctors and Dentists. The NHS Clinical Commissioning Group has commented that practices across the city are under considerable pressure and any increase in the local population will increase this pressure, however marginally.

8.89. Whilst it is acknowledged that the proposed development will increase pressure on local services the scale of the development is not such that the LPA could reasonably expect the provision of such services on site as part of the proposal.

8.90. It is noted that there have been a number of objections in respect of air quality and pollution. The air quality officer has thoroughly assessed the application in this regard and does not object to the proposed development.

**8.91. Proposal Public Benefits versus Development Harm Assessment / policy conflict**

The NPPF makes clear that developments should be considered in the context of the presumption in favour of sustainable development.

8.92. When applying the planning balance there are a number of factors which weigh for and against the scheme.

8.93. As set out previously, whilst the proposal does provide for modern and flexible office floorspace that could accommodate a reasonable level of full time equivalent positions the development fails to fully accord with policy CP3 in respect of the loss of employment floorspace with the proposed provision of commercial floorspace significantly below existing levels and below the amount of office floorspace set out in the Council's aspirations for the site in the draft CPP2. The proposed housing mix, which is overly skewed towards smaller units also weighs against the scheme whilst there are some deficiencies in the quality of the accommodation to be provided.

8.94. When assessing the policy conflict above it is important to weigh this against the benefit of the scheme which includes a significant amount of housing. It is recognised that in this instance that any further increase in employment floorspace would have to come at the expense of residential floorspace, thus further eroding the viability of the scheme. It is also important to note, that the quality of employment space provision will be improved as part of the scheme with a modern, flexible building which has the potential for increased job density over existing levels. The provision of a greater proportion of larger flats would again further negatively impact on the viability and thus the deliverability of the scheme on a site which the Council has aspirations for residential led mixed use development.

- 8.95. In respect of the impact on residential amenity the proposal will undoubtedly result in a very different outlook for neighbouring properties to the north, west and to the south and will change how they experience views towards the development site with visually dominant residential blocks replacing the low rise warehouse sheds. Whilst this impact is acknowledged it is considered there is sufficient separation between the proposal and adjoining properties to ensure that the development would not be significantly overbearing or enclosing. Whilst there will be a level of overlooking and a loss of privacy to neighbouring properties this is not considered so significant as to warrant refusal of the application. The sunlight and daylight impact of the proposal has been thoroughly assessed and any impacts on neighbouring amenity are relatively minor in this regard.
- 8.96. The public benefits of the proposal include the contribution of 152 residential units towards the City's housing target of 13,200 new homes over the plan period, of which a proportion (10%) would be affordable units on a site where the council has future aspirations for higher density residential led mixed use development. It is also acknowledged that currently the Council is unable to demonstrate a 5 year housing land supply. The proposed housing would make a valuable contribution towards the shortfall and weighs strongly in favour of the scheme.
- 8.97. The proposed design is considered to be appropriate in the context of the higher density built form to the south and the development and is considered to have an acceptable impact on the townscape in both longer and more localised views.
- 8.98. The transport team are satisfied that the proposal will have an acceptable impact on the local road network and would not result in highway safety concerns or significant additional parking stress.
- 8.99. Other factors including impacts relating to standard of accommodation, ecology, sustainability, land contamination have been assessed and have been considered acceptable.
- 8.100. Overall it is considered that the public benefits of the scheme as a whole which includes the provision of a significant amount of housing are such that they outweigh the planning policy conflicts and the limited harm to the amenity of neighbouring occupiers.
- 8.101. 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 by the date set out above, the application shall be refused for the following reasons:

- 9.1. 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 One and the City Council's Developer Contributions Technical Guidance.
- 9.2. 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 One and the City Council's Developer Contributions Technical Guidance.
- 9.3. 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 policy CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
- 9.4. 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, CP7 and CP16 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
- 9.5. The proposed development fails to provide a financial contribution towards sustainable transport measures contrary to policies CP7 and CP9 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
- 9.6. The proposed development fails to provide a financial contribution towards off site sports provision contrary to policies CP16 and CP17 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
- 9.7. The proposed development fails to provide a financial contribution towards an onsite artistic component provision contrary to policies CP5, CP17 and CP3 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
- 9.8. The proposed development fails to provide a construction & Environmental Management Plan (CEMP) which 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.
- 9.9. The proposed development fails to provide a Delivery & Service Management Plan which is fundamental to ensure that the safe operation of the

development and to protection of the amenities of nearby residents, in accordance with policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.

## **10. EQUALITIES**

- 10.1. Conditions are proposed which would ensure all new build dwellings are in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings). In addition 5% of the new dwellings are to meet Wheelchair Accessible Standards.



Cllr. Amanda Knight

BH2018/01738 - Land to rear of Lyon Close

19//11/2018:

Objection to the Planning Application BH2018/01738 due to Loss of Daylight & Privacy for Residents in Lyndhurst Road

The planning application indicates that the planned Block D will be 10 storeys high. Of the planned buildings this is the building closest to the train tracks and to the terraced houses in Lyndhurst Road which are on the other side of the train tracks. The height of Block D will substantially reduce the daylight accessibility of the buildings in 6 - 22 Lyndhurst Rd and will also result in a loss of privacy.

According to the DAYLIGHT AND SUNLIGHT ASSESSMENT document (attached to planning application BH2018/01738) residents living in 6 - 22 Lyndhurst Road will have a reduction of Vertical Sky Component (VSC) by up to 30.26%. This is a violation of policy QD27 of the Brighton & Hove City Plan which protects residents against the loss of amenity such as the loss of daylight and privacy.

We therefore propose that the planned height of Block D is reduced to achieve a VSC reduction that is acceptable for the residents in 6 - 22 Lyndhurst Rd. It should be investigated whether the reduction of floors in Block D can be compensated by adding floors to Block A or Block B as they will be furthest away from the terraced houses in Lyndhurst Rd and hence their height will have a smaller impact on the daylight accessibility for the residents in Lyndhurst Rd.

Comment on Local Schools affected by the new Lyon Close Development

The new Lyon Close development will create 163 new flats, many of them 2 and 3 bedroom flats which are likely to be occupied by families with school children. This will put a strain on the schools in the area, in particular Brunswick Primary School & Hove Junior School.

We therefore ask the council to clarify how the arrival of additional children in school age will be managed. Will there be additional positions for teachers, space and resources made available in the two schools in question?

Comment on Local GP Surgeries

Goodwood GP Practice recently closed and their patients were transferred to the nearby Charter Medical Centre. The new Lyon Close residents will likely register at Charter Medical Centre as well, putting a further strain onto this GP practice.

We therefore ask the council to clarify how adequate health care provision will be guaranteed for the existing and new residents in the area, especially those ones who are currently registered at the Charter Medical Centre.

Comment on Commercial Spaces within the new Lyon Close Development

The Green Party conducted a survey amongst the residents in the surrounding

streets of the new Lyon Close development. Participants of the survey told us they didn't want more retail spaces.

Balancing this with the city-wide need for jobs, we suggest that the developer Crest Nicholson ensures that the retail spaces in the new Lyon Close development are reserved for certain occupiers - e.g. SME's, local businesses, a level of new start-ups, no multiples.

Additionally, the developer Crest Nicholson should set aside one or more of the retail units to be used as a community space for local residents.

Comment on Affordable Housing in the new Lyon Close Development

The planned affordable housing is 39.88%. The affordable housing units should be equally distributed amongst the rest of the housing units, i.e. the affordable housing units should not be in one identifiable block or unit. Whether the affordable housing is mixed in with the remaining housing units, or kept separate, we ask for the affordable housing units to be "tenure blind" in order to promote social integration.

Comment on Improvements to Public Transport and the Use of Bicycles

There are 80 parking spaces planned in the new Lyon Close development. The planned parking spaces will not cover the demand of parking spaces for the new residents in Lyon Close. We therefore ask the developer Crest Nicholson and the Council to implement the following suggestion to increase the use of public transport and bicycles:

1. Currently only the Lyon Close bus stop on the North side of Davigdor Rd (for no. 7 buses into central Brighton) has a bus shelter. The developer Crest Nicholson should provide a bus shelter for the Lyon Close bus stop on the opposite side (for no. 7 buses towards George St, Hove).
2. The developer Crest Nicholson should fund bus passes for the new residents in the Lyon Close development (the condition to receive a free bus pass should be that the receiver of a bus pass requests no parking permit for Zone O and takes up no parking space in the new Lyon Close development. This would apply for any new residents for five years from first occupancy).
3. The developer Crest Nicholson should provide enough safe, lockable bicycle sheds to cover the demand of the new residents in the Lyon Close development.
4. The developer Crest Nicholson should support the establishment of a cycle user group for the combined occupants of the retail premises on site, contributing funds to cover business mileage and in line with Bicycle User Group Guidance: <https://www.cyclinguk.org/article/campaigns-guide/bicycle-user-groups-bugs>
5. The developer Crest Nicholson should fund a scheme for bicycle vouchers, allowing the new residents in the Lyon Close development to purchase bikes at a reduced price.



6. A new hub for the Brighton Bike Share scheme should be set up at Lyon Close (either on site or in close proximity to the Lyon Close development).

Comment on Parking Spaces for the New Lyon Close Development

The application site is located within Controlled Parking Zone (CPZ) O. For the 163 new housing units there are 80 car park spaces planned (of which 8 disabled). BHCC parking data indicates that as of June 2018, 92% of the available Zone O permits had been taken up. The Consultee Comment submitted on 06-Sep-2018 indicates that the survey conducted Wednesday 1st and Thursday 2nd November 2017, commencing at 01:00 and 12:30 (assumed to be 00:30) respectively do not sufficiently demonstrate that there is enough parking available in the area surrounding the Lyon Close development to compensate the missing parking spaces in the Lyon Close development itself.

In order to protect the existing residents' parking spaces we suggest the following:

1. No new parking permits or Controlled Parking Zone O are to be given out to the new residents in the Lyon Close development, unless they are blue badge holders

2. The council should examine whether there are any free parking spaces or parking spaces with parking meters in Zone O that could be converted to Zone O parking permit spaces to increase the overall capacity of Zone O in order to accommodate the increased demand due to parking permits for blue badge holders and for visitors (visitor parking permits).



Cllr. Jackie O'Quinn

BH2018/01738 - Land to rear of Lyon Close

22/08/2018:

**Representation against planning application BH2018/01738**

I have received numerous emails and phone calls from residents in the area objecting to this planning application, which relates to 163 flats being constructed plus some office space on the site known as Lyons Close. The main objections which residents have are over-development, height of some of the blocks, loss of light, lack of car parking facilities and general impact on local amenities such as doctor's surgeries, local schools etc. I myself have put forward these points every time that I have met with Crest Nicholson regarding this planned development. I have argued that 5-6 stories is high enough for this area, any more stories and this development will be seriously out of character with much of this heavily residential area, I have also pointed out that there is a serious shortage of parking spaces in the area and major issues regarding the capacity of the Charter Medical Centre, particularly after it had to take thousands of patients from the Goodwood Court Surgery when that was closed down by inspectors. I am glad to see that some points were taken on board, such as removing the block of flats that lay along the side of the railway line but more could have been done about the height of the blocks. Crest Nicholson are also offering 40% affordable housing which can be considered admirable if it weren't for the fact that I doubt they will be affordable to most local people, as has been seen with the Artisan block of flats built at the entrance to Lyons Close by Crest Nicholson, where the price of flats is so high that hardly any flats have been sold.

I support the local residents very strongly in their objections and I also have a lot of sympathy with Howden's as I agree that they will find it difficult to find other suitable premises in Hove. This could be an exemplary development if it were for a lesser number of flats with the highest block being 5 or 6 blocks high. It is an unattractive development – quite lumpy in style and I fear no amount of landscaping will cover up that fact. None of the residents object to this area being developed but they want to see a proportionate development that is in sympathy with the local area.

I reserve my right to speak on this issue to the planning committee.



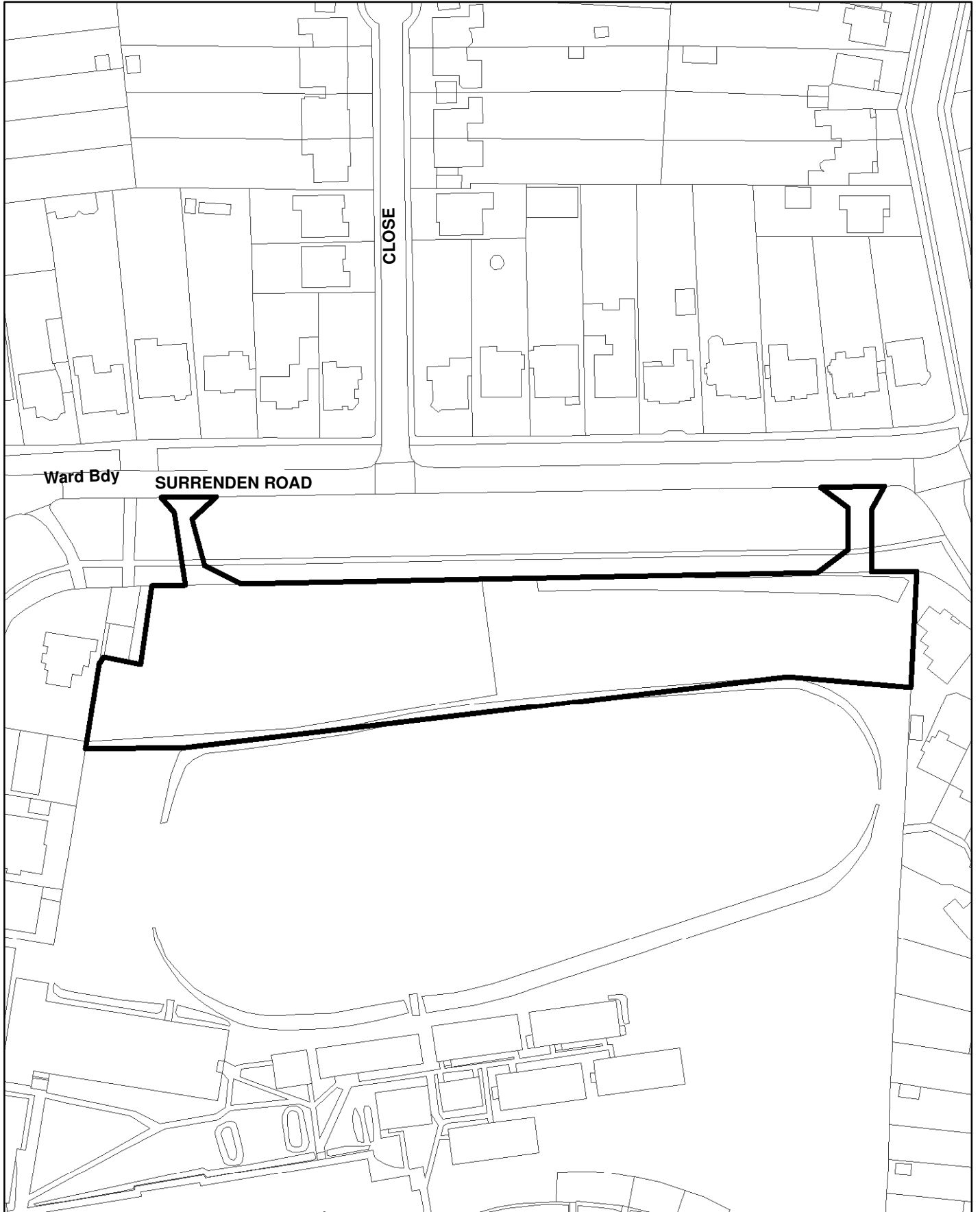
# **ITEM B**

**Land At Varndean College, Surrenden Road  
BH2017/03676  
Outline Application**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



# BH2017/03676 Land at Varndean College, Surrenden Road



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2017/03676</b>	<b><u>Ward:</u></b>	<b>Withdean Ward</b>
<b><u>App Type:</u></b>	<b>Outline Application</b>		
<b><u>Address:</u></b>	<b>Land At Varndean College Surrenden Road Brighton BN1 6WQ</b>		
<b><u>Proposal:</u></b>	<b>Outline application with some matters reserved for erection of 10no residential units (C3), comprising 1no two bedroom, 6no three bedroom and 3no four bedroom houses, with new access from Surrenden Road, associated car and cycle parking and approval of reserved matters for access and layout.</b>		
<b><u>Officer:</u></b>	Sonia Gillam, tel: 292265	<b><u>Valid Date:</u></b>	27.11.2017
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	26.02.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	10.10.2018
<b><u>Agent:</u></b>	NTR Planning Clareville House 26-27 Oxendon Street London SW1Y 4EL		
<b><u>Applicant:</u></b>	Varndean College Surrenden Road Brighton BN1 6WQ		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to the Conditions and Informatives as set out hereunder, **SAVE THAT** should the s106 Planning Obligation not be completed on or before the 26th June 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 11 of this report:

### S106 Heads of Terms

- 30% affordable housing - 3 units (2 affordable rent units, 1 shared ownership unit)
- Contribution of £4,800 towards the Council's Local Employment Scheme,
- Construction Training and Employment Strategy
- Contribution of £43,844 towards recreation, open space and indoor sport provision.
- Contribution of £32,884 towards local Education provision

### 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>
Proposed Drawing	2015-119_210	C	3 November 2017
Proposed Drawing	2015-119_211	G	3 November 2017

Proposed Drawing	2015-119_212	C	3 November 2017
Proposed Drawing	2015-119_220	C	3 November 2017
Proposed Drawing	2015-119_221	E	3 November 2017
Proposed Drawing	2015-119_230	C	3 November 2017
Proposed Drawing	2015-119_231	E	3 November 2017
Proposed Drawing	2015-119_240D	D	3 November 2017
Proposed Drawing	2015-119_241	E	3 November 2017
Proposed Drawing	2015-119_250	D	3 November 2017
Proposed Drawing	2015-119_251	D	3 November 2017
Proposed Drawing	2015-119_260	C	3 November 2017
Proposed Drawing	2015-119_261	C	3 November 2017
Proposed Drawing	2015-119_270	C	3 November 2017
Location Plan	2015-119_100	C	13 November 2017
Block Plan	2015-119_201	D	13 November 2017

2. The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved;  
**Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
  
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) appearance; and
    - (ii) landscaping; and
    - (iii) scale;
  - 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. The buildings within the reserved matters submission shall not exceed two storeys in height.  
**Reason:** To ensure the development integrates effectively with its surroundings and to comply with policy CP12 of the Brighton and Hove City Plan Part One.
  
5. No extension, enlargement, alteration of the dwellinghouses or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

6. No tree shown as retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

7. 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.

8. The vehicle parking area(s) shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.

**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One and SPD14: Parking Standards.

9. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy

QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

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

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.

11. The development hereby permitted shall not be commenced until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the Technical Note - Surface Water Drainage received 27 November 2017 and the Technical Note - Surface Water Drainage addendum received on the 24 May 2018 has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design.

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

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

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

13. i) The development hereby permitted shall not be commenced until a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority.
- ii) A written record of any archaeological works undertaken shall be any archaeological investigation 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.

14. No development above ground floor slab level of any part of the development hereby permitted shall take place until an Energy Assessment and Strategy has been submitted and approved in writing by the Local Planning Authority. The Strategy should include;
  - i) how energy efficiency will deliver carbon reduction,
  - ii) how use of efficient building services will reduce carbon emissions,
  - iii) how application of renewable energy technologies will deliver carbon reductions, and
  - iv) how 19% carbon emissions reduction will be achieved as a minimum.

The approved 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 ensure that the development is sustainable and makes efficient use of energy and to comply with policy CP8 of the Brighton & Hove City Plan Part One

15. No development above ground floor slab level of any part of the development hereby permitted shall take place until a Sustainability Statement and an updated Sustainability Checklist robustly demonstrating how the scheme addresses Brighton & Hove City Plan Policy CP8 has been submitted and approved in writing by the Local Planning Authority. The approved 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 ensure that the development is sustainable and makes efficient use of energy and to comply with policy CP8 of the Brighton & Hove City Plan Part One

16. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of the green roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The

roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.

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

17. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, 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. 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.

18. Prior to the commencement of the development hereby approved (including any ground clearance, tree works, demolition or construction), details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) 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.

**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.

19. No development shall take place until an ecological design strategy (EDS) addressing the creation of new wildlife features to compensate for the loss of the butterfly bank, to provide bat foraging habitat and to mitigate for impacts on the adjacent LWS, 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 any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this.

20. A landscape and ecological management plan (LEMP) for the biodiversity reserve and semi-natural habitats within the development shall be submitted to, and approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following:
- a) description and evaluation of features to be managed;
  - b) ecological trends and constraints on site that might influence management;
  - c) aims and objectives of management;
  - d) appropriate management options for achieving aims and objectives;
  - e) prescriptions for management actions, together with a plan of management compartments;
  - f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
  - g) details of the body or organisation responsible for implementation of the plan;
  - h) ongoing monitoring and remedial measures.

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

**Reason:** Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long term management of habitats, species and other biodiversity features.

21. The development hereby permitted shall not be occupied until details showing the type, number, location and timescale for implementation of the compensatory bird and bat boxes has been submitted to and approved in writing by the Local Planning Authority. The scheme shall then be carried out in strict accordance with the approved details and thereafter retained.

**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One and SPD11: Nature Conservation and Development.

22. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan and SPD14: Parking Standards.
23. The development hereby permitted shall not be occupied until the new and extended crossovers and access have been constructed.  
**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
24. The development hereby permitted shall not be occupied until pedestrian crossing improvements (footways across verges as necessary and dropped kerbs with paving and tactile paving) shall have been installed at the junction of and across:
- Peacock Lane with Braybon Avenue;
  - Braybon Avenue (south) with Surrenden Road;
  - Surrenden Road with Braybon Avenue;
  - Surrenden Road (west (east if not possible due to tree roots)) with Surrenden Close (this will also require a speed table pedestrian crossing of the access road on-site outside H04 (or H05) to link with the site footway);
  - Surrenden Close with Surrenden Road;
  - Surrenden Road (west) with Friar Road; and
  - Beechwood Avenue with Surrenden Road.
- Reason:** To ensure that suitable footway provision is provided to and from the development and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
25. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.
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

28. 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.

Informatives:

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

washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.

5. 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 the archaeology condition.
6. A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk)".
7. Southern Water advise that detailed design of the proposed drainage system should take into account the possibility of surcharging within the public sewerage system in order to protect the development from potential flooding.
8. The applicant is advised that details of the proposed native species rich hedge should be included in the reserved matters application re landscaping.

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

- 2.1. Varndean College is a further education college site located in the north-west corner of the Surrenden campus, which it shares with Downsview Link College, Dorothy Stringer School, Varndean School and Balfour Infant School. The site is bounded by Surrenden Road to the north and west, Draxmont Way to the south and Friar Road and Friar Crescent to the east, all of which are residential streets.
- 2.2. The relevant part of the College site consists of approximately 0.62 hectares of scrub and grass land which is separated from the College playing pitches by a steep bank. Part of the area forms a biodiversity (butterfly) reserve. At a lower ground level to the south are the College playing fields which are in an elevated position in relation to the main College buildings further to the south.
- 2.3. Immediately to the north of the site is a public footpath, separated from Surrenden Road by a wide grassed verge containing mature street trees. The opposite side of Surrenden Road consists of good sized, detached residential properties occupying elevated positions in relation to street level.
- 2.4. Outline planning permission is sought for the erection of 10 no. residential units (C3), comprising 1 no. two bedroom, 6 no. three bedroom and 3 no. four bedroom houses, with new access from Surrenden Road, associated car and cycle parking. Matters of access and layout will be assessed as part of this application, with matters of appearance, landscaping and scale reserved for a later date.
- 2.5. The indicative plans incorporate 10 no. low level, two storey dwellings, 7 no. detached and 3 no. terraced houses which are proposed as affordable housing. The bedrooms and living areas are proposed to the lower ground floor and the kitchen/ dining areas to the upper ground floor level. Each

dwelling would have private outdoor amenity space and private car/ cycle parking provision by way of a garage to the front.

- 2.6. The proposed residential dwellings will be accessed from Surrenden Road via a 'crescent shaped' one-way system with access at the eastern end of the site frontage and egress back onto Surrenden Road at the western end. A main spine road will run along the northern boundary of the site, with two visitor car parking spaces provided; one at each end of the access road. One dedicated private car parking space would be provided within a secure garage for each unit. Twenty-four cycle parking spaces would be provided on site; two per unit in addition to four short-stay visitor spaces.
- 2.7. The main pedestrian access from Surrenden Road to the north would give level access to the upper ground floor of the properties. Pedestrian access would be provided to the lower ground floor via steps to the front of each property.
- 2.8. The existing pedestrian footpath would be maintained with dropped kerbs proposed at the point of the new vehicular access. The existing steps and pedestrian footpath from Surrenden Road to Varndean College would be retained.

### **3. RELEVANT HISTORY**

- 3.1. There is an extensive planning history, mainly for additional and replacement college buildings, remodelling of the site buildings and some minor alterations. Of greatest relevance to this application is the following:
- 3.2. **BH2017/04102** Installation of an artificial turf pitch with alterations to existing adjacent grass playing pitch and installation of 8no 4.5 metre floodlights. Under consideration.
- 3.3. **BH2001/01506/OA** Outline application for extension to roof space of main school building, extension to college building, new access to college, re-alignment and extensions to car park to provide for an additional 48 spaces (application includes all reserved matters for these elements). Outline application for residential development on 1.2 hectares of land fronting Surrenden Road and Draxmont Way. Outline application for relocation of playing field to east side of college and provision of special needs teaching unit (1440 square metres). Landscaping. Withdrawn 13.03.2002.
- 3.4. **BH2015/ENQ/00601** Officer pre-application advice was provided for the current scheme.

### **4. REPRESENTATIONS**

- 4.1. **Two hundred and eighty-nine (289)** letters have been received objecting to the proposed development. The main grounds for objection are as follows:
  - Loss of open space
  - Loss of recreation space

- Space is 'green lung'
- Green space important to wellbeing
- Biodiversity and ecology impacts
- Loss of biodiversity/ butterfly reserve
- Location of new biodiversity reserve not viable
- Loss of Small Blue butterfly
- Impact on wildlife such as bats and slowworms
- Loss of link between Withdean Woods and the Downs
- Green corridor for wildlife
- Loss of vegetation/ hedgerow
- Loss of trees
- Noise
- Increased traffic and congestion
- Loss of view/ vista
- Overdevelopment
- Visual impact
- Design out of character with area
- Concern that housing density too low
- Concern that housing density may be higher
- Luxury housing
- Lack of affordable housing
- Poor living conditions
- Plans inconsistent
- Access road narrow
- Damage to grass verges
- Parking issues
- Council not solved existing parking problems
- Traveller vans
- Highway safety
- Air pollution
- Light pollution
- Students use area for studies
- Pressure on local schools spaces
- Impact on school catchment areas
- Pressure on local amenities
- Lack of landscaping
- Loss of privacy
- Safety issues for students
- Obesity and impact on children health
- City is Unesco Biosphere Reserve
- Nature Improvement Area
- Overpopulation
- Site not allocated for housing in City Plan
- Lack of consultation by applicant
- Lack of consultation by Council
- Lack of marketing over sale of land
- Building should be on brownfield sites

- Disruption during build
  - Short sighted strategy for quick financial gain
  - Setting precedent for selling land
  - Local covenants
  - Impact on property values
  - Profit
  - Developer greed
- 4.2. Councillors Ann Norman, Ken Norman, Nick Taylor, Lee Wares and Geoffrey Theobald object to the proposal. The comments are attached.
- 4.3. **Twenty-seven (27)** letters has been received supporting the proposed development for the following reasons:
- College can continue to thrive through Govt cuts
  - Ensure future educational needs met
  - College needs to survive or land may be sold in entirety
  - Current facilities in poor state of repair
  - Private land
  - Only small part of site lost
  - Much needed housing
  - Playing fields will be retained
  - Small wildlife area can be relocated
  - Good design
  - Off-street parking included
  - Enhance sporting facilities
  - Modest and sensitive application
  - Minority of people affected, large number will benefit
- 4.4. **The Regency Society** supports the principle of residential development on this land, although density is too low and the design should be of a similar massing to the existing housing opposite.

## 5. CONSULTATIONS

### External

- 5.1. **Sport England:** No objection The strip of land is on a significantly different land level from that where the pitch is laid out. Historically, it would not appear to have ever formed part of a playing pitch. It is not considered that these houses would prejudice the use of the playing pitch, which has always been laid out for football and currently has existing housing to the west. Furthermore, the existing pitch is natural turf with no floodlights in place, meaning that there is unlikely to be unreasonable amounts of noise outside daylight hours.

Having assessed the application, Sport England is satisfied that the proposed development meets the following Sport England Policy exception:

*E3 - The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to*

*make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site.*

- 5.2. **Ecology:** No objection subject to conditions requesting an Ecological Design Strategy and Landscape and an Ecological Management Plan. The creation of a new butterfly bank features should be implemented before the existing feature is lost.
- 5.3. **Brighton and Hove Archaeological Society:** No objection The land around Varndean and Surrenden Road have produced a number of important finds from the prehistoric period - contact the County Archaeologist for recommendations.
- 5.4. **County Archaeologist:** No objection The proposed development is within an Archaeological Notification Area defining the site of a prehistoric burial and the potential for further burials. 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.
- 5.5. **UK Power Networks:** No objection
- 5.6. **Scotia Gas Networks:** No objection
- 5.7. **Southern Water:** No objection subject to conditions relating to foul and surface water sewerage disposal.
- 5.8. **Sussex Police:** No objection

#### Internal

- 5.9. **Planning Policy:** Comment  
Jan 2019: This is a finely balanced case because despite the reduced size of the playing field weighing against the proposal, it does have merit through improving the retained existing facilities. The concerns around retention of open space and whether the space could be used for future expansion of the college, should be weighed against the naturally delinked nature of the site from the wider playing field, scope for enhancements of sports facilities and absence of objection from Sport England, including benefits from contributions to overall city plan target for housing and family units.

Feb 2018 following further information from agent: There is a lack of evidence to demonstrate that the partial loss of the college's playing field to residential development, justifies an exception to policy.

Dec 2017 original comments: The principle of this development conflicts with policies CP16 and CP17 of the City Plan Part One. The proposal also fails to give due regard to policy HO20 of the Brighton & Hove Local Plan. It is not

considered that the material considerations relevant to this proposal justify an exception to policy.

- 5.10. **Housing Strategy:** No objection Policy compliant affordable housing contribution of 30% proposed. Mix should be 2 houses for rent and 1 for shared ownership.
- 5.11. **Sustainable Transport:** No objection subject to conditions relating to cycle parking, pedestrian crossing improvements and installation of new crossovers
- 5.12. **Arboriculture:** No objection on Arboricultural grounds. The development has potential to impact on some recently protected mature trees, yet it is acknowledged that this could be minimised during the construction process with the use of planning conditions. However there would be visual detriment to wider landscape and views.
- 5.13. **Sustainable Drainage:** No objection Following receipt of addendum to Technical Note - Surface Water Drainage May 2018, the concerns regarding surface water runoff have been adequately addressed.
- 5.14. **Economic Development:** No objection subject to the submission of an employment and training strategy at least one month prior to site commencement and a developer contribution of £4,800 to be paid prior to commencement. The 10 dwellings are all of a size to meet the increasing need for accommodation for families and will make a small contribution to the wider challenges the city currently faces and in the future.
- 5.15. **Education:** No objection subject to a developer contribution of £32,884 towards education infrastructure.
- 5.16. **Sustainability:** No objection subject to sustainability conditions re energy and water.
- 5.17. **Environmental Health:** No comments

## 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
- CP6 Visitor accommodation
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design
- CP13 Public streets and spaces
- CP14 Housing density
- CP16 Open space
- CP17 Sports provision
- CP18 Healthy city
- CP19 Housing mix
- CP20 Affordable housing

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

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- SU3 Water resources and their quality
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- QD5 Design - street frontages
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD18 Species protection
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes
- HO20 Retention of community facilities
- HE12 Scheduled ancient monuments and other important archaeological sites

#### Supplementary Planning Documents:

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

#### Asset of Community Value (ACV)



- 7.1. The application site forms part of a wider area that has been listed since November 2018 as an asset of community value (ACV). This wider area, listed as "Varndean Green", includes the playing field, the biodiversity area, the public footpath, the grass verge, the elm hedge and the copse of trees.
- 7.2. The fact that land is listed as an ACV is capable of being a material planning consideration in the determination of planning applications relating to that land. Whether it is, in any given circumstance, and the weight to be attached, is a matter of planning judgment for the LPA.
- 7.3. It should be noted that a listing as an ACV gives no right of access to the land concerned: the only right that follows from a listing is the right of a community interest group to bid to purchase the listed land should the owner intend to sell.
- 7.4. So far as the site proposed for development is concerned, this has not been in effective or efficient use as a viable playing field or functional open space due to natural barriers and a level drop, as detailed in the Planning Policy section of this report.
- 7.5. Therefore it is considered that the loss of this relatively small section of the ACV would not significantly impact on the local community's enjoyment of the listed land. That being so, and the fact that there is no right of access, it is considered that the land's status as an ACV should be given limited weight.
- 7.6. It is also noted in the Council's Open Space study update 2011 that the Withdean Ward has no over-riding deficiency in open space and that the outdoor sports facilities provision and parks and gardens for the ward would be in surplus by 2030.

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. Matters of appearance, landscaping and scale are reserved and therefore the main considerations in the determination of this application relate to the principle of the proposed development, access and layout in relation to constructing 10 no. dwellings (1 no. two bedroom, 6 no. three bedroom and 3 no. four bedroom houses) with associated parking on the site.
- 8.2. Matters raised in neighbour representations relating to profit, covenants, impact on property values, school catchment areas, overpopulation, disruption during build are not material planning considerations.
- 8.3. 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 housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).
- 8.5. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation, 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).
- 8.6. **Planning Policy:**  
Open Space  
The site is classified as open space within the City Plan, albeit providing only a visual amenity benefit rather than a functional sporting benefit. The City Plan Part 1 Policies CP16 Open Space and CP17 Sports Provision seek the retention, enhancement and more effective use of open space especially playing fields.
- 8.7. Policy CP16 does reflect that there may be instances when the loss of some open space could be justified due to open space surpluses in a localised area combined with a low quality offer so that it is unable to meet wider open space needs and/or citywide requirements. For example, the site is too steep or its configuration significantly limits its use.
- 8.8. Due to the sloping nature of the site, the application states that it is physically unusable for sport and recreation purposes, and has never been used by the College for such. It is advised that in accordance with point d) of CP16: the site is of poor quality, is not part of a playing field and is incapable of meeting the city's wider open space needs.
- 8.9. Marketing information has been submitted with the application; it is acknowledged that this is somewhat lacking in its aim to make the local community aware that the site was available on a long lease or for sale. However the Planning Policy officer has confirmed that playing fields are excluded from the exception criteria that take marketing into account. In view of the minimal weight to be given to marketing, to test the importance of the open space to the local community, the robustness of the approach has not been considered or explored further in this instance.

- 8.10. Given the nature of the site, it is not considered to have the same value as other parts of the playing field, not even as a run-off area or safety margin adjacent to the existing pitch. Lack of objection to the proposed development by Sport England, who considers that the development would not prejudice the use of this playing pitch, confirms this. Sport England is satisfied that the proposed development affects only land incapable of forming a playing pitch, and does not result in the loss of, or inability to make use of the existing playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the existing playing area of the pitch or the loss of any other sporting/ancillary facility on the site.
- 8.11. Policy HO20 of the Brighton & Hove Local Plan resists the change of use of a community facility. The policy seeks to ensure a community facility site such as a school/ college is not released if there is a need for the site. Regard to policy HO20 should be given in respect of the impact of the partial loss of the site on the educational facility.
- 8.12. The application states that students previously accessed the site from time to time connected with studies in archaeology and environmental sciences. However, these subjects have since been removed from national syllabuses by the Government and the area has therefore not been maintained or used at all within the last few years. The application proposes that a new Biodiversity Reserve is created elsewhere within the College campus. There is a grassed bank area to the east of the main College Buildings and it is intended to establish an enhanced biodiversity area in this location to mitigate for the loss of habitat on the application site. Sport England has advised it has no objection to this part of the site being used for the reserve and the County Ecologist has confirmed that this is acceptable mitigation provided it is implemented before the existing feature is lost. This can be secured by condition.
- 8.13. Given the above, the loss of this small part of the campus would have little impact on the students with regard to their studies.
- 8.14. Housing density and mix  
The provision of 10 residential units on the site would make a positive contribution towards meeting the City's housing target for a minimum 13,200 dwellings for the plan period as set out in City Plan Policy CP1.
- 8.15. With regard to density, CP14 seeks to achieve a minimum density of 50 dwellings per hectare, which on this site of 0.62ha would be a minimum of 31 dwellings per hectare (dph). The proposal for 10 residential units would provide a density of 16dph. The lower density proposal clearly raises questions about efficient use of the site. However weighing this against the generally leafy nature of the surroundings with predominantly single dwellings in good sized plots, the lower density development would fit in with the general pattern and character of the area and would not warrant refusal of the application in this case, subject to other planning considerations.

- 8.16. Policy CP19 requires that proposals have regard to housing mix considerations and have been informed by local assessments of housing demand and need. Usually a mix of unit sizes would be sought which reflects the housing needs of the city. Additionally it is important to maximise opportunities to secure additional family sized housing on suitable sites.
- 8.17. The proposed three and four bedroom houses will make a small but important contribution to the identified need for larger family housing and the provision of one two bed dwelling will help to enhance the housing mix. The proposed development is therefore considered to accord with Policy CP19 of the City Plan.
- 8.18. In this instance it is accepted that the site has not been in effective and efficient use as a viable playing field or functional open space due to natural barriers and a level drop. The College students are not using the space as a recreation space or study area; Sport England is satisfied that the proposed development affects only land incapable of forming a playing pitch and do not object to the proposal; the loss of the biodiversity reserve can be mitigated by creating an enhanced reserve on another part of the site; and Withdean Ward has no over-riding deficiency in open space.
- 8.19. Further to the above it should be recognised that the LPA requests a developer contribution of £43,844 towards children's play areas, parks and gardens, sports facilities and allotments. Local sites likely to benefit from improvements include Hollingbury Park and Woods, Preston Park, Blakers Park, Withdean Park and Withdean Sports Complex.
- 8.20. Given this and that much needed family dwellings, including policy compliant (30%) affordable housing would be provided, it is considered that the loss of this section of land is justified and a residential development of the site can be supported in principle, subject to other planning considerations.
- 8.21. **Design and Appearance:**  
The Outline application reserves matters of appearance, landscaping and scale and so these are not considered in detail other than to confirm that the quantum of development sought could realistically be accommodated on site.
- 8.22. The surrounding area is characterised by predominantly detached and semi-detached two storey residential dwellings. Most are traditional in style with features such as brick walls, hipped brown/ red tiled roofs and good sized gardens.
- 8.23. As previously mentioned, on balance, the loss of this section of the site and the principle of residential development is supported in policy terms. However the resulting development should respect its context and should be designed to emphasise and enhance the positive qualities of the local neighbourhood, taking into account the local characteristics in order to accord to design policies in the local plan.

- 8.24. Indicative plans show 10 no. two storey dwellings which would not be dissimilar in terms of footprint to the surrounding dwellings in the vicinity and would be appropriately sited on the parcel of land with sufficient spacing. In terms of landscaping the indicative plans show gardens, shrubbery and hardstanding areas which appear appropriate.
- 8.25. Although not seeking approval for appearance, the plans indicate dwellings designed to take advantage of the topography of the site through being set into the slope of the site with a low level. The units are shown set down below street level to minimise the visual impact on the streetscene and to the dwellings on the opposite side of Surrenden Road. There is no objection in principle to sustainable modern design.
- 8.26. Loss of strategic views is referenced by objectors. Policy CP12 seeks to protect or enhance strategic views into, out of and within the city. It is noted that from the opposite side of Surrenden Road to the north of the site, there are glimpses of views over the College fields down to the sea, although these views are impacted by the existing hedgerow and buildings. The application also references that the function of open space includes amenity value, such as the open appearance of a site when viewed from public vantage points.
- 8.27. It is recognised that the views and the open nature of the site would be affected by the proposed development, although the long views from inside the site itself would be unchanged and the properties opposite are in an elevated position and the strategic views down to the sea from these dwellings would not be significantly affected by the development. Furthermore, from the indicative plans, the intention is, in the interests of wider visual amenity, to maintain views between and beyond the new buildings which as mentioned would be predominantly set down below street level.
- 8.28. The above is noted however the outline application does not seek approval of 'appearance', 'landscaping' and 'scale'. These issues would need to be addressed as part of a reserved matters application.
- 8.29. **Standard of accommodation:**  
Policy QD27 seeks to ensure a good standard of amenity for future occupiers of the proposed development and this requirement is one of the core planning principles of the NPPF (para 17). The Council does not at present have an adopted policy to require minimum unit sizes. Government has however published room and unit sizes which they consider to represent the minimum acceptable size for rooms and units, in the form of their 'Technical housing standards - nationally described space standard', March 2015. These standards provide a useful and highly relevant reference point in assessing standard of accommodation in new residential units.
- 8.30. From the indicative plans the proposed units would exceed the above government standards and would provide very good levels of circulation space, outlook and light, incorporating extensive southerly aspects. Refuse and recycling facilities are proposed in the garage space which is appropriate.

The application confirms that the new access road would be suitable for refuse vehicles.

- 8.31. Local Plan Policy H05 requires a provision of private usable amenity space in new residential development appropriate to the scale and character of the development. The plans indicate garden sizes of between 174m<sup>2</sup> and 795m<sup>2</sup> which are appropriate to the scale of the properties and not uncharacteristic of the area. It is noted that whilst some surrounding properties do have large rear gardens, others, such as the closest properties to the site to the west 106-114 Surrenden Road, do have more modest outside space.
- 8.32. With regard to noise, given that the existing pitch is natural turf with no floodlights in place, there is unlikely to be unreasonable amounts of noise outside daylight hours. This is the situation for the existing properties surrounding the site.
- 8.33. **Affordable Housing:**  
The city-wide Housing Strategy adopted by Council in March 2015 has as Priority 1: Improving Housing Supply, with a commitment to prioritise support for new housing development that delivers a housing mix the City needs with a particular emphasis on family homes for Affordable Rent. The council has an Affordable Housing Brief based on evidenced housing needs in the city.
- 8.34. Brighton and Hove is a growing City with 273,000 people in 126,000 homes, with an additional 22,840 households (914 per annum) projected to 2033. The affordable housing brief reflects the very pressing need for affordable homes in the City. With half of all households in the city earning less than £28,240 per annum, the city's private sector housing is unaffordable for the majority of the population.
- 8.35. In terms of need for affordable rented accommodation: There are currently 1,410 households in Temporary Accommodation, 963 of which include children and/or pregnant women, and 9738 people listed on the joint housing register at 8 January 2019 - 71% of whom are in demonstrable need. 1291 of those listed (822 within demonstrable need) require 3 bedroom accommodation and the waiting time for a suitable 3 bedroom property is longer than for smaller homes.
- 8.36. Council policy (CP20) requires 30% of properties to be affordable in developments of between 10 and 14 units to be provided either on site or as a commuted sum payment. The scheme proposes an on-site provision of 3 x 3 bed affordable family homes with gardens, which at 30% accords with the above policy.
- 8.37. To ensure that all new homes developed are of a good standard that is flexible, adaptable and fit for purpose, the Affordable Housing Brief offers support for schemes that meet the Govt. nationally described space standards where possible. The homes would be of a good size and standard of accommodation. At 157m<sup>2</sup> the units would be significantly larger than the minimum size requirement.

- 8.38. The Affordable Housing Brief requires affordable housing to be provided as 55% Affordable Rent and 45% as Shared Ownership (low cost home ownership). For this development this equates to 2 houses for rent and 1 for shared ownership. This can be secured by legal agreement.
- 8.39. The proposed development would make a positive contribution to affordable housing provision and is thus in line with policy CP20 in City Plan Part 1. The application is supported by the Council's Housing Strategy team.
- 8.40. **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.
- 8.41. From the proposed site layout there would be good separation distances to the neighbouring residential properties at all boundaries. The proposed relationship between the proposed and existing dwellings is wholly characteristic of the pattern and grain of the area. Given siting and distances proposed there would be no significant impact in terms of overbearing impact and loss of light, outlook or privacy.
- 8.42. **Sustainable Transport:**  
Trip generation  
The submitted Transport Statement demonstrates there is not forecast to be a significant increase in vehicle trip generation as a result of the proposals therefore any impact on carriageways would be minimal and within their capacity.
- 8.43. It is likely that the increase in dwellings would result in an increase in pedestrian and mobility and visually impaired trip generation. In order to ensure that the proposed development provides for the transport demand it generates and the needs of pedestrians and the mobility and visually impaired, the Council's Highways team has recommended that Pedestrian crossing improvements within the vicinity of the site are secured by condition.
- 8.44. Access Arrangements  
The applicant is proposing acceptable changes to pedestrian and vehicle access arrangements onto the adopted (public) highway. During the course of the application amendments to the width of the vehicle crossovers and access roads in appropriate places, and the inclusion of wooden bollards installed every 2m to prevent verge parking have been submitted which is welcomed by the Highways officer.
- 8.45. Parking

For this development of 10 residential units with 1 x 2 beds, 6 x 3 beds and 3 x 4 beds the minimum cycle parking standard is 23 cycle parking spaces in total (19 for residential units and 4 visitor spaces). Twenty-four cycle parking spaces are proposed be provided on site; two per unit in addition to four short-stay visitor spaces. The plans show installation of each cycle store within the garage and cycle parking for visitors along the access road.

8.46. The site is outside of a controlled parking zone so there is free on-street parking available including on-street disabled bays. The application proposes a visitor disabled bay and an electric charging facility as per the Parking Standards. This is deemed acceptable by the Highways officer.

8.47. **Sustainability:**

Policy CP8 sets out residential energy and water efficiency standards required by new development; to achieve 19% above Part L Building Regulations requirements 2013 for energy efficiency, and to meet the optional standard for water consumption of 110 litres/ person/day. It is acknowledged that this Greenfield site offers opportunities for excellent standards of sustainable design to be achieved. Therefore the Council's Sustainability officer has requested that an energy assessment and revised sustainability checklist are submitted to demonstrate how the scheme addresses Policy CP8 at detailed design stage. This can be secured by condition.

8.48. **Ecology:**

The site is designated as part of a Nature Improvement Area (NIA) under Policy CP10, which seeks to protect existing biodiversity and seek gains wherever possible. Additionally part of the application site is a butterfly reserve and the College has undertaken planting and landscaping works here to encourage an increase in multiple butterfly species. The area is not currently being actively monitored or managed,

8.49. The proposed development site is also adjacent to a proposed new Local Wildlife Site (LWS) (Surrenden Crescent and Surrenden Road) which is important for supporting a wider range of fungi, including some scarce species.

8.50. The application proposes that a new Biodiversity Reserve is created within the College campus. There is a grassed bank area to the east of the main College Buildings and it is intended to establish an enhanced biodiversity area in this location to mitigate for the loss of habitat on the application site. Bat surveys have also been undertaken by the applicant in accordance with best practice. This shows that Bat activity across the site is relatively low with a low number of species.

8.51. The County Ecologist has confirmed that, provided the recommended mitigation measures are implemented, the proposed development can be supported from an ecological perspective. A biodiversity reserve should be created within the campus (before the existing feature is lost) to mitigate for the loss of the butterfly banks and bat foraging habitats and impacts on the



proposed LWS. This can be secured by condition. The provision of green roofs, bat and bird boxes and a native species rich hedge are welcomed. Conditions for an Ecological Design Strategy and a Landscape and Ecology Management Plan are recommended.

8.52. With regard to reptiles, the County Ecologist has confirmed that no further surveys are needed however, given that there is the potential for reptiles to be present, there should be a precautionary approach to site clearance which should be detailed in the Ecology Design Strategy.

8.53. **Arboriculture:**

An acceptable Arboricultural Assessment report has been submitted with the application. Since receipt of the report an amenity assessment has been undertaken and as a result two Tree Preservation Orders (TPO's) have been made. The first of these is on the garden of 114 Surrenden Road which protects 14 trees within the garden. The second on land at Varndean Collage, including the area around the electricity substation, protects 11 trees. Both of these orders were made due to the trees being important landscape features and the amenity that they provide to the area.

8.54. The Council's Arboriculture officer has confirmed that the proposals outlined in the application should have little direct impact on any of the TPO protected trees. There would be some tree losses which include a low quality Sycamore tree on the frontage close to the electricity substation but visually this would have been of little detriment to the area. Tree protection and landscaping details are requested; this can be secured by condition.

8.55. It is noted that the Arboriculture officer also comments on the loss of views across the landscape, although acknowledges that this is peripheral to their remit and confirms there is no objection on Arboricultural grounds. Loss of views is discussed above in the section on Design and Appearance.

8.56. **Archaeology:**

The proposed development is within an Archaeological Notification Area defining the site of a prehistoric burial and the potential for further burials. In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the County Archaeologist has recommended that the area affected by the proposals should be the subject of a programme of archaeological works. This would enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss.

8.57. **Flood risk/ Sustainable drainage:**

The applicant has submitted a Technical Note relating to surface water drainage which proposes sustainable drainage methods. The Council's Flood Risk Management Officer has no objections to the scheme. A design and associated management and maintenance plan of surface water drainage as per the recommendations in the submitted Surface Water Technical Note and addendum.

**8.58. Other Considerations:**

Construction Environmental Management Plan

There is a considerable amount of construction proposed, in very close proximity to local residents. Construction by its very nature does have noisy phases and will inevitably be noticeable at various stages to various individuals throughout the build. It is therefore recommended that a Demolition Management Plan and a Construction Environmental Management Plan (CEMP) are requested via condition.

**8.59. Wealden District Council Objection**

Wealden District Council has raised an objection to this application based on concern about its potential impact on the Ashdown Forest (European) site which is a material planning consideration in the determination of this application. This application has been considered under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) for its potential impacts on the Ashdown Forest (European) site. A pre-screening exercise has been undertaken to assess the potential in combination with other development for "likely significant effects" on the Ashdown Forest. This has concluded that there is no potential for "likely significant effects" on the Ashdown Forest (European) site and therefore it is not necessary to carry out further appropriate assessment under the Habitats Regulations".

**8.60. Concurrent application BH2017/04102 for 3G pitch**

It is noted that the proceeds from sale of the land for residential development would be invested in the educational facilities on site, including the enhancement of the outdoor sports and recreation facilities through the construction of an artificial turf football pitch, and the associated enhancement of existing grass sports pitches (BH2017/04102). Whilst this is welcomed, given that the proposal is not considered to represent a loss of a viable playing field, it is considered that the acceptability of this development does not hinge on the enabling of these proposed outdoor sports enhancements.

**8.61. Conclusion:**

The development would make a positive contribution to the City's housing needs, including policy compliant much needed affordable family housing, on a section of open space which is not used for sports, recreation or education purposes. There would be no harm caused to the living conditions of the occupants of surrounding properties and the creation of an on-site enhanced biodiversity area would mitigate for the loss of habitat on the application site. It is acknowledged that the open nature of the site and the strategic views to the sea would be impacted by the proposal; however given the above benefits it is considered that, on balance, the loss of the under-utilised open space is acceptable and residential development on the site can be supported in principle.

**9. EQUALITIES**

- 9.1. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) dwellings appears to be achievable.
- 9.2. Policy HO13 states that a proportion of all new dwellings on larger sites (of more than 10 new dwellings) should be built to a wheelchair accessible standard. However as this proposal is for only 10 dwellings this does not apply.

### **Developer Contributions**

30% affordable housing - 3 units (2 affordable rent units, 1 shared ownership unit)

Open space and indoor sport: Based upon the current adopted Developer Contributions Technical Guidance and SPGBH9, £43,844 towards:

- Children's play: Hollingbury Park and/or Preston Park, Blakers Park
- Parks/gardens incl. amenity and natural semi natural: Hollingbury Park and Woods and/or Withdean Park, Preston Park, Blakers Park
- Sports: Hollingbury Park and/or Withdean Sports Complex, Waterhall, Preston Park
- Allotments: Roedale Valley and/or Lower Roedale

Local Employment scheme: Based upon the current adopted Developer Contributions Technical Guidance, £4,800 plus the submission of an employment and training strategy at least one month prior to site commencement.

Education: Based upon the current adopted Developer Contributions Technical Guidance, £32,884 towards the cost of secondary provision

**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 provision of affordable contribution housing which addresses the requirement of Policies CP1, CP19 and CP20 of the Brighton and Hove City Plan Part 1.
2. The proposed development fails provide a financial contribution towards Open space and indoor sport provision contrary to policy CP7 of the City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
3. 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 City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.
4. 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

City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.

5. The proposed development fails provide a financial contribution towards Education provision contrary to policy CP7 of the City Plan Part 1 and the City Council's Developer Contributions Technical Guidance.

# **ITEM C**

**Westerman Complex, School Road, Hove  
BH2018/02583  
Removal or Variation of Condition**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



BH2018/02583 Westerman Complex, School Road, Hove



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2018/02583</b>	<b><u>Ward:</u></b>	<b>Wish Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Westerman Complex School Road Hove BN3 5HX</b>		
<b><u>Proposal:</u></b>	<b>Application for variation of condition 1 of BH2016/02535 (Outline application for Demolition of existing mixed use buildings and erection of 104 dwellings (C3) and 572 Sqm of office space (B1) and approval of reserved matters for access, layout and scale.) to allow amendments to the approved drawings including alterations to the car parking layout and internal layouts. Variation of condition 4 regarding the layout of the units to provide one additional one-bed unit, and one less two-bed unit and condition 6 regarding the maximum building heights to state that other than lift overruns the maximum buildings heights shall be as stated in the condition.</b>		
<b><u>Officer:</u></b>	<b>Eimear Murphy, tel: 01273 293335</b>	<b><u>Valid Date:</u></b>	<b>20.08.2018</b>
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	<b>19.11.2018</b>
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	<b>Mr Simon Bareham 2 Port Hall Road Brighton BN1 5PD</b>		
<b><u>Applicant:</u></b>	<b>Hyde New Homes C/O Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD</b>		

Cllr Robert Nemeth requested that 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 GRANT planning permission subject to the 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	16.146.100	A	15.08.2019
Block Plan	16.146.206	B	08.02.2019
Proposed Floor Plans - Roof	16.146.200	D	16.01.2019
Proposed Floor Plans - Ground	16.146.201	E	16.01.2019
Proposed Floor Plans – First	16.146.202	E	16.01.2019

Proposed Site Layout - Second	16.146.203	E	16.01.2019
Proposed Site Layout – Third	16.146.204	E	16.01.2019
Proposed Site Layout – Fourth	16.146.205	D	16.01.2019
Proposed Elevations 1 of 3	16.146.220	E	18.01.2019
Proposed Elevations 2 of 3	16.146.221	E	18.01.2019
Proposed Elevations 3 of 3	16.146.222	D	16.01.2019
Proposed Bin Store	16.146.224	A	16.01.2019
Car Park Strategy	16.146.226	A	16.01.2019
Statement - CAR PARK SURVEY	WIE11133/TR001/A03		7 July 2016
Contaminated Land Report	PHASE 1: RISK ASSESSMENT		7 July 2016
Statement	OVERSHADOWING REPORT	3	7 July 2016
Statement	PLANNING STATEMENT		7 July 2016
Flood Risk Assessment	14892/02/SDR01		7 July 2016
SUDS strategy	14892/02/SDR01		7 July 2016
Statement	TRANSPORT STATEMENT		7 July 2016
Statement	GS-2979573		7 July 2016

2. a) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:
- i. Appearance
  - ii. Landscaping
- b) The reserved matters shall be carried out as approved.
- c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.
- Reason:** To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.
3. The development hereby permitted must be begun not later than 3rd August 2021 or two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- Reason:** To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
4. The development hereby approved shall not exceed a maximum of 104 residential units of which no more than 21 units shall be dwellings and no more than 83 units shall be flats. The overall composition of the development shall comprise a maximum of 49 one-bed units; 33 two-bed units and 22 three-bed units.
- Reason:** For the avoidance of doubt and to define the extent of this permission in the interests of proper planning.

5. The development hereby approved shall not exceed a maximum of 527 m<sup>2</sup> of Class B1 floorspace.

**Reason:** For the avoidance of doubt and to define the extent of this permission in the interests of proper planning.

6. Except for the lift overruns shown on the drawings hereby approved, the buildings shall not exceed the following heights in each of the following positions within the site:

- a) Development sharing a boundary with the properties in Alpine Close (to the east of the site) shall not exceed 3 storeys in height with a maximum ridge height of 9.75m.

- b) Development sharing a boundary with the properties in Marmion Road (to the east of the site) shall not exceed 4 storeys in height with a maximum height of 11.75m

- c) The development with a frontage onto School Road shall not exceed 4 storeys in height with a maximum height of 12.5m with the exception of (i) development at the corner of School Road and the Rayford House site which shall not exceed 5 storeys with a maximum height of 14.5m; and (ii) development sharing a boundary with the properties in Marmion Road (to the east of the site) which shall not exceed 4 storeys in height with a maximum height of 11.75m

**Reason:** To ensure the development integrates effectively with its surroundings and to comply with policy CP12 of the Brighton and Hove City Plan Part One and QD27 of the Brighton and Hove Local Plan.

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

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

8. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the Flood Risk Assessment (Ref: RCEF14892/02/SDR) has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the building commencing. No other infiltration of surface water drainage into the ground is permitted other than with the written approval of the Local Planning Authority.

**Reason:** As this matter is fundamental to ensure that the principles of sustainable drainage are incorporated into this proposal and that measures are in place to prevent an increased risk of flooding and the pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

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

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

10. (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 site investigation report (based on the Phase 1 Preliminary Risk Assessment submitted with the application) documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the Phase 1 Preliminary Risk Assessment in accordance with BS10175:2001+A1:2013 in order to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.; and, unless otherwise agreed in writing by the Local Planning Authority,
  - b) (A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring to identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.
- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of (i) (b) above that any remediation scheme required and approved under the provisions of (i) (b) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of

implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:

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

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

**Reason:** The site lies in Source Protection Zone 2 for the Goldstone abstraction, therefore any contamination present has the potential to impact groundwater quality including drinking water supplies and is therefore a matter that 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 policies SU3 and SU11 of the Brighton & Hove Local Plan.

11. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the Local Planning Authority. 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 protect local groundwater in accordance with policies SU3 and SU11 of the Brighton & Hove Local Plan.

12. Prior to the commencement of development a full asbestos survey of the site and buildings, undertaken by a suitably qualified specialist shall be submitted to and approved in writing by the local planning authority. If any asbestos containing materials are found as a result of the survey, a separate report containing evidence to show that all asbestos containing materials have been removed from the premises and taken to a suitably licensed waste deposit site shall be submitted to and approved in writing by the local planning authority.

**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.

13. 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 & Hove Local Plan, policy CP8 of the City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

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

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

15. No development above ground floor slab level of any building hereby permitted shall take place until details for the soundproofing of that building have 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 the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

16. No development above ground floor slab level of any building hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the Local Planning Authority, including:

- i. Samples of all external wall finishes including brick, render and cladding including details of the colour of render/paintwork to be used);
- ii. Full details of all hard surfacing materials;
- iii. Full details of the proposed window, door and balcony treatments;
- iv. Full details of all other materials to be used externally.

The development shall be carried out in accordance with the approved details.

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

17. No development above ground floor slab level of any building hereby permitted that contains a ground floor commercial use shall take place until a scheme for the soundproofing of the floors and walls between the commercial and residential uses hereby approved, has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of future occupiers and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
18. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of electric vehicle charging points for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.  
**Reason:** To encourage travel by more sustainable means and to comply with policy CP9 of the Brighton & Hove Local Plan and SPD14.
19. The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.  
**Reason:** This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
20. Prior to the commencement of development an Energy Strategy for the development that addresses the requirements of City Plan Policy CP8 paragraph 4.85 and covers matters such as emission savings from energy efficiency and renewable energy measures to be incorporated in the development, including the feasibility of CHP/CCHP and community heating systems shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented and thereafter retained  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy and incorporates renewable energy in order to comply with policy CP8 of the Brighton and Hove City Plan Part One.
21. Prior to first occupation of the development hereby permitted, details of external lighting (including design, layout and levels of illuminance) shall have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.

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

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

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

23. All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development unless the development is to be developed/occupied in phases in which case the implementation shall be in accordance with a programme that is submitted to and agreed in writing with the Local Planning Authority prior to each phase of development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.

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

24. 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.

25. Prior to first occupation of the development hereby permitted, details of the motorcycle 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 motorcycles are provided in accordance with the Council's Supplementary Planning Document 14: 'Parking Standards'.



26. Prior to first occupation of the development hereby permitted, details of disabled car parking provision for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.  
**Reason:** To ensure the development provides for the needs of disabled residents, staff and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan with the Council's Supplementary Planning Document 14: 'Parking Standards'.
27. No dwelling shall be occupied until all the internal access roads and car parking areas have been constructed and provided in accordance with the approved plans. The vehicle parking area shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved.  
**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton & Hove City Plan Part One.
28. A minimum of 10% of the affordable housing units and 5% of the total of all of the residential units hereby approved shall be built to wheelchair accessible standards. The wheelchair accessible dwellings shall be completed in compliance with Building Regulations Optional Requirement M4(3)(2b) (wheelchair user dwellings) prior to first occupation and shall be retained as such thereafter. All other dwelling(s) hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
29. All approved hard surfaces 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.
30. 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.

31. 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.
32. Details of any penetrative ground construction methods, such as piling, shall not be permitted other than with the prior written approval of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The works shall be carried out in full accordance with these approved details.  
**Reason:** The development lies within the Source Protection Zone 2 for the Goldstone abstraction this condition is required to ensure that any piling does not harm groundwater resources and is therefore a matter that is fundamental to the acceptable delivery of the permission to safeguard the health of local residents or occupiers and to comply with policies SU3 and SU11 of the Brighton & Hove Local Plan.
33. Unless otherwise agreed in writing by the Local Planning Authority, within 4 months of the date of first occupation of the non-residential development hereby approved, a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Very Good' has been submitted to, and approved in writing by, the Local Planning Authority.  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the Brighton and Hove City Plan Part One.

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. Gas Networks advise that there is a pressure gas main near the site. They advise there should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. You should, where required confirm the position using hand dug trial holes. Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.
3. All existing water main infrastructure should be protected during the course of construction works. No development or new tree planting should be located within 3m either side of the centreline of the foul sewer. No new soakaways

should be located within 5m of a public sewer. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. For further advice, the applicant is advised to contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

4. The development should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service the development and seek a formal application for connection to the water supply is required in order to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
5. To discharge the surface water drainage condition above the Local Lead Flood Authority would expect the developer to provide the detail for the whole site, which should include the details of each soakaway (including location and build details) and details of any other drainage infrastructure, such as permeable paving. The applicant will need to provide;
  - An appropriate soakaway test in accordance with Building Research Establishment Digest 365 (BRE365). Details of the results will need to be provided.
  - Appropriate calculations to demonstrate that the final proposed drainage system will be able to cope with both winter and summer storms for a full range of events and storm durations.
  - The applicant should demonstrate the surface water drainage system is designed so that flooding does not occur on any part of the site for a 1 in 30 year rainfall event, and so that flooding does not occur during a 1 in 100 (+30% allowance for climate change) year event in any part of a building or in any utility plant susceptible to water.
6. A comprehensive maintenance plan for the drainage system will need to be provided. This should describe who will maintain the drainage, how it should be maintained and the frequency needed to monitor and maintain the system for the lifetime of the development. It is not sufficient to state: "the system is therefore designed to cause a nuisance if the silt traps block, prompting the resident to clear the silt trap." Examples of suitable maintenance plans can be found at [www.susdrain.org](http://www.susdrain.org).
7. The details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' or similar guidance recognised by the council.
8. The site is potentially contaminated. The developer should be aware that the responsibility for the safe development and secure occupancy of the site rests

with the developer. It is strongly recommended that in submitting details in accordance with the above 'Potentially Contaminated Land' conditions that the applicant has reference to CLR 11, Model Procedures for the management of land contamination. This is available online as a pdf document on both the DEFRA website ([www.defra.gov.uk](http://www.defra.gov.uk)) and the Environment Agency ([www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)) website.

9. Whilst the requisite planning permission may be granted, should any complaints be received at any time with regards to noise, vibrations, dust, odour, smoke or light, this does not preclude the Council from carrying out an investigation under the provisions of the Environmental Protection Act 1990.
10. 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 Ministry of Housing, Communities & Local Government website ([www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government](http://www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government)).
11. 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.
12. The water efficiency standard is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. 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.
13. The Construction Environment Management Plan should include commitments to implementing appropriate working practices and managing construction vehicle movements to that which avoid peak times and in particular the start and end of the school day for the nearby school and wheel wash facilities are the site and other mitigation measures.
14. Prior to any works commencing on the adopted highway, a Section 278 Agreement with the Highway Authority must be formally agreed.
15. Any roads that are to be adopted must be included within a Section 38 Agreement with the Highway Authority prior to any works commencing. It is advisable to obtain the prior technical approval for all estate road details from the Local Highway Authority.
16. The car-free scheme required to be submitted should include the registered address of the completed development; an invitation to the Council as Highway

Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.

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

- 2.1. The application site currently comprises a mix of mainly two storey brick built buildings located on School Road. The units, which were originally constructed as industrial and light industrial units which provided a mixture of uses including a children's play centre, car wash, church, tool hire and tyre repair/MOT centre. The site backs on to the high boundary wall to the rear gardens of houses in Alpine Road to the east. Stoneham Road terminates at the south corner of the site. To the south are the terraced houses in Marmion Road. Further south and fronting Portland Road is the new medical centre and pharmacy with flats above. The car park to Rayford House, a four storey office building which has prior approval to change to 32 flats, adjoins the site to the north. On the opposite side of School Road is a mix of residential, office and school uses.
- 2.2. Due to the granting of an outline planning permission for the redevelopment of the site, the units are now vacant. The outline planning permission (BH2016/02535) established the principle of the redevelopment of the site for the erection of 104 dwellings (C3) and 572 sqm of office space (B1) and approval of reserved matters for access layout and scale. That permission was subject to a S106 Planning Agreement.
- 2.3. This application seeks to amend the description of the development to correct an error in relation to the office floor place (B1); to vary the conditions 1, 4 and 6 of that outline planning permission.
- 2.4. The description of the development in error referred to the provision of 572sqm of office space (B1) despite the application form, submitted plans and documents stating consistently referred to 527sqm.
- 2.5. Condition 4 relates to the housing mix. As approved the mix included 48 x one bed units and 34 x two bed units. The proposal is to change this mix to 49 x one bed units and 33 x two bed units.
- 2.6. Condition 6 relates to the height limits that are set across the site. The overall scale of each block is as per or less than the limits set, the proposal for the increase in height is to accommodate the lift overruns only and no other part of the buildings.
- 2.7. The original grant of outline planning permission also considered access, layout and scale. The submitted plans involve aspects that alter access both into and through the site including pedestrian access and linkages. Access also has implications for layout. Layout which was also agreed includes the position of buildings and relation with spaces outside the building.
- 2.8. In terms of "access" and "layout" the changes include:

- Re-introduction of the stepped access between the site and Stoneham Road
- New pathway to rear of the terraced housing.
- Changes to widths of pavements leading into the site off School Road
- Additional paths within the site
- Removal of indicative movement routes across the site (between the buildings and parking spaces)
- Changing to car park layout including the loss of undercroft car parking
- Changes to external cycle stand positions and removal of motorcycle spaces partially arising
- Repositioning of grouped cycle, refuse /recycling stores due to the retention of the existing substation and provision of an additional smaller substation
- Location of refuse storage for terraced housing
- Alterations to carparking provision on School Road (east side) to include cycle parking stands and the removal of trees

2.9. Subsequently submitted amended plans the plans show:

- Deletion of the stepped link to Stoneham Road and continuation of the boundary wall
- Removal of the path running behind the terraced housing
- Reintroduction of motorcycle spaces
- Revisions to the location enclosed cycle and refuse receptacle storage
- Removal of cycle stands in bays in School Road
- Provision of demarcations for pedestrian crossing points within the development

2.10. Along with the clarification on B1 floor area, proposed and amended changes to access and layout, result in the need for the plans listed in Condition 1 to be updated.

2.11. The application was accompanied by a covering letter, supporting statements including Planning Statement (2018), Design & Access (2018), Transport Statement (2018). The Air Quality, Noise Impact Assessment Biodiversity, Daylight/Sunlight, Sustainability Appraisal had been submitted with the original outline application.

### **3. RELEVANT HISTORY**

3.1. There were a number of applications relating to the individual buildings which are currently on the site. There were no previous applications that directly related to the outline planning application.

#### **3.2. Pre-application advice**

Pre-application advice had been provided by officers over a number of years regarding the redevelopment of this site. The outline planning application followed advice provided by officers in October 2015. It was not presented to the Design Panel.

- 3.3. **BH2016/02535:** Outline application for Demolition of existing mixed use buildings and erection of 104 dwellings (C3) and 572 Sqm of office space (B1) and approval of reserved matters for access, layout and scale. Approved 3rd August 2018 along with a S106 Planning Agreement.
- 3.4. **BH2018/02561:** Reserved matters application pursuant to outline permission BH2016/02535 for approval of appearance and landscaping. Under consideration.

#### 4. NEIGHBOURS

- 4.1. Fifteen (**15**) letters were received in relation to the originally submitted details. Of those there are 2 sets of duplicated submissions and 1 letter is signed by 3 households. 1 letter was signed by three households. Of those submitted 8 representations are generally in support of the application but raise concerns regarding the link through to Stoneham Road and parking. The remainder object. 3 letters were received in relation to the amended plans supporting the removal of the link but retained objections on parking issues. The objections included:
- 4.2. Heritage:
- Adversely affects the Conservation Area
- 4.3. Traffic, Parking, Access
- Additional traffic, narrowing of the road and turning in will cause congestion and danger to school children
  - Width of the road does not support parking on both sides
  - Unacceptable reduction in parking spaces
  - No account has been taken of the uneven distribution of spaces in Zone R
  - No parking marked for businesses occupying the office block
  - Not able to park near one's property
  - Not enough parking
- 4.4. Pedestrian Access and Link
- Inclusion of the link contradicts the developer's commitment at the public meeting
  - Was objected to previously
  - Would have an adverse effect on Poet's Corner
  - Would not save a lot of time walking to Aldrington Station
  - Potential to become an area for unsocial activities requiring continual maintenance
  - Potential to become unsafe if not appropriately lit and maintained
  - Never been a private right of way
  - Will encourage overflow parking in Stoneham/Alpine Roads which are already highly congested
  - The cut-through has the potential of becoming a drop-off and pick-up point for West Hove Schools

#### 4.5. Design Issues

- Poor design
- Inappropriate height with lift exceeding the height restriction even if set back
- Overdevelopment

#### 4.6. Residential Amenity

- Overall reduction in amenity
- Impact on residential amenity including overlooking gardens of in Alpine Road
- Direct overlooking, loss of privacy to three dwellings in School Road from windows and balconies
- Noise increase as commercial buildings were not occupied during evening and weekends
- Overshadowing and imposing
- Loss of sunlight and lack of light
- Impact from headlights on residential properties
- Restriction on view
- Too close to the boundary
- Undesirable impact on the quiet cul-de-sac in direct conflict with Policy QD27
- Detriment to property values

#### 4.7. Responses to Amended Plans:

Three (3) letters were received noting the removal of the pedestrian link. Although generally in support, an objection was raised to

- Height of the wall being built at the end of Stoneham Road, shown at 1.8m, on the basis that it is too low, will encourage youngsters to climb on it and on top of the bin store/substation on the other side. It is stated that it should be at least 2.5m, preferably 3m;
- Will encourage dumping;
- Parking at the end of Stoneham Road has become very difficult, following the ill-considered revocation of the care-free planning approval condition originally imposed on the 80a Stoneham Road development.
- One or two trees could be planted at this end of Stoneham Road

## 5. CONSULTATIONS

### External

5.1. **County Archaeologist:** Comment. Although situated within an Archaeological Notification Area, does not believe that any significant archaeological remains are likely to be affected by these proposal. No further recommendations.

5.2. **Ecology:** No comments.



### 5.3. **Sussex Police: Comments.** Expressed concerns over:

- The one long unobserved pathway leaves the 21 houses vulnerable with the potential to increase the fear of crime in the residents and generate crime by creating unobserved access to the rear
- Entrance to the rear garden pathway is adjacent to the proposed pedestrian link and needs to be lit to create a more safe and secure environment for the residents when using it
- Consideration should be given to creating another entrance at the opposite end at plot No 1 so that the 10 / 11 dwellings respectively are equally accessed by the pathways, reducing the fear of crime and reducing travel distances.
- The gate indicated would have to be vandal resistant and the means of accessing / locking it made available to all residents. This would also apply to any additional gates
- Recommend that the rear garden boundary fences overlooking this rear pathway consist of 1.5 metre high close board fencing topped with 300mm of trellis. This arrangement can achieve both security and surveillance requirements into an otherwise unobserved area and a security height of 1.8 metres
- Link to Stoneham Road may be beneficial for the surrounding community to access the train station, this opens up the development to excessive permeability.
- The link (located between block G and plot 21) present, the proposed cycle store and the gated entrance to the rear gardens would be vulnerable to unauthorised and unobserved access and attack.
- Removing the pedestrian access would remove the threat to the cycle store and unobserved access to the vulnerable rear gardens.
- The whole of this area would benefit from lighting conforming to BS5489:2013 throughout its route
- Concerns are expressed about the provision of refuse stores in front of the housing as it will impinge upon the pedestrian pathways causing obstruction and congestion.
- Additionally there is the concern of damage to the closely parked vehicles given the parking proposals. The manual for streets recommend that there is a minimum of 2 metres to allow access. I feel the inclusion of the bins on the pedestrian walkway has the potential to infringe this.
- The boundary between public space and private areas should be clearly indicated. Where dwellings front the public domain i.e. the footpath, demarcation in the form of defensible planting railings is to be present
- Recommend the postal arrangements for the flats is through the wall, external or lobby mounted secure post boxes.
- Strongly urge the applicant not to consider letter apertures within the flats' front doors. The absence of the letter aperture removes the opportunity for lock manipulation, fishing and arson attack and has the potential to reduce unnecessary access to the block. It also reduces unnecessary access to the block.

- From a crime prevention perspective for the apartment blocks, it will be imperative that access control is implemented into the design and layout to ensure control of entry is for authorised persons only.
- SBD recommends that all communal dwellings with more than 10 dwellings or bedrooms should have visitor door entry system or access control system to enable management oversight of the security of the building i.e. to control access to the building via the management of a recognised electronic key system. It should also incorporate a remote release of the primary entrance door set and have audio visual communication between the occupant and the visitor.
- In order to create a safe and secure communal environment for residents occupying blocks of multiple flats, bedsits or bedrooms, and to reduce the opportunity for anti-social behaviour by restricting access to all areas and floors of the building to all residents, SBD asks for compartmentalisation. Detailed advice on compartmentalisation can be found within SBD Home 2016 on the SBD website.
- Under-croft parking to the rear of blocks B, C & D, should be illuminated for the safety and security of the users and their vehicles and recommend that the applicant seek advice from Sussex Police Counter Terrorist Security advisers with regards to the scheme under-croft as soon as it is practicable
- Secure cycle stores should have PIR lighting installed internally and that the front doors are lockable.
- Given that the proposed cycle store has double doors, a door closer is to be fitted along with spring loaded automatic shoot bolts to the unlocked door to ensure it closes first. This arrangement would work very well for the refuse store as well. Sheffield hoop style stands are to be of galvanised steel bar construction of at least 3mm thickness.
- Concerned over the parking arrangements opposite block G with manoeuvring vehicles and pedestrians accessing the residential and retail elements of block's F&G.
- The rear access point to block C is to have anti-vehicle measures included to remove any contact with residents accessing the block and manoeuvring vehicles.
- With respect to the office element of the development. 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.

5.4. **Comments in relation to amended plans:** No objections.

#### **Internal**

5.5. **City Regeneration:** Comments that the amendment to the make-up of the accommodation does not affect the amount of developer contributions requested as both 1 and 2 bedroom units are subject to the same developer contributions.

5.6. **Environmental Health:** No Comment.

5.7. **Heritage:** No objection.

5.8. **Housing:** No Comment.

5.9. **Planning Policy:** No Comment.

5.10. **Sustainable Transport:** No objections in principle. It is noted that the development already has planning consent and therefore comments have been provided on the following revisions:

5.10.1. Pedestrian Access

- loss of pedestrian routes within the site on both sides of each vehicle access with no alternative routes provided
- less comfortable, safe and attractive pedestrian routes
- mobility impaired users would struggle to access the eastern side of the development without sufficiently wide routes between parked cars
- unclear whether dropped kerbs would be provided
- width of the pedestrian routes alongside the access roads have also been reduced and varies from approximately 1.7m to 1m, further reduced by proposed cycle parking. Unnecessary as the access roads could be reduced to 4.1m (currently shown as 4.5m and 4.8m)
- would expect at least one 2m wide footway alongside each access road with other footways being a minimum of 1.5m or absolute minimum of 1.2m at pinch points
- introduction of bin stores for each dwelling on the eastern side reduces the pedestrian route to 1.2m. This would be acceptable alongside pinch points. However, the landscaping plan (submitted for BH2018/02561) indicates the whole route is in fact 1.2m. It is recommended that this be widened to 1.5m.
- doors opening outwards onto narrow pedestrian routes are request to open inwards where opening onto the public highway
- breaks in car parking to the eastern side to provide pedestrian access have been removed, reading more as a traditional carriageway without demarcated pedestrian routes but this should be revised to in order to be closer to the consent scheme
- demarcating these routes using raised crossings to provide pedestrian priority and reduce traditional carriageway feel as well as widening pedestrian routes on the east side of the development, repositioning cycle parking where it obstructs pedestrian movement;
- amend kerb radii to slow speeds; reinstate breaks in parking to provide access to eastern side of development
- the stepped pedestrian access up to Stoneham Road would be supported in terms of allowing better access for residents, including towards Aldrington Station, preferably be ramped to allow access by all
- noted this access was removed and although any addition would be beneficial, the Highway Authority would not wish to object on the grounds of accessibility where the consented scheme provides no route at all

#### 5.10.2. Vehicle Access

- No changes apart from deficiencies in pavement widths

#### 5.10.3. Car Parking

- The approved ground floor plan shows 89 spaces plus a car club bay (90).
- 78 car parking spaces are shown, being 5 less than indicated in the Transport Statement Addendum and 12 fewer than consented
- both figures include the 14 on-street spaces created by removing the existing crossovers which would be available for all permit holders to use and not associated with the development itself
- A condition was attached restricting the ability of future residents, other than Blue Badge holders from applying for on-street parking permits. It is therefore considered that the impacts of the reduced on-site parking provision on surrounding streets will be managed.
- As such, and also noting that the creation of additional on-street parking will help cater for additional visitor demand that may arise, no objections are raised in this instance.
- It is noted that some of the changes requested to provide satisfactory pedestrian access (see comments above) and disabled parking (see comments below) may result in a small further reduction in car parking. For the reasons stated above, it is not considered that this would result in a significant impact upon surrounding streets.

#### 5.10.4. Loss of street trees

- the street trees along the site frontage should be retained
- final design of the on-street parking proposals would be subject to a S278

#### 5.10.5. Disabled Parking

- 6 disabled parking bays are shown on site
- unclear how many wheelchair accessible units are retained and therefore whether the SPD14 minimum requirement is met
- design is not in accordance with Traffic Advisory Leaflet 5/95, as required by Local Plan policy TR18. In order to be compliant, a 1.2m access zone should be provide on both sides of each bay, although this can be shared between adjacent bays.

#### 5.10.6. Cycle Parking

- Cycle parking would remain unchanged but repositioned with additional details and changes requested to certain locations, stand types and spacing
- Sheffield stands are preferred and laid out as per Manual for Streets
- Where two-tier storage is used, space between and aisle widths should be appropriate
- Individual cycle stores for the houses may be acceptable where not communal

#### 5.10.7. Trip Generation

- Reduction in parking has the potential to result in a small reduction in vehicle trips compared to the consented scheme as a result of the reduction in car parking.

5.10.8. In the event that the application is approved, an additional condition relating to the car park layout and pedestrian routes. It is noted that the comments provided are also of relevance to the associated reserved matters application (BH2018/02561)(landscaping).

5.11. **Comments on Amended Plans:** No comments.

5.12. **Sustainability Appraisal Officer:** No comments.

## 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) (2018)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

SA6 Sustainable Neighbourhoods

CP1 Housing Delivery

CP2 Planning for Sustainable Economic Development

CP3 Employment Land

CP7 Developer Contributions

CP8 Sustainable Buildings

CP9 Sustainable Transport

CP10 Biodiversity

CP12 Urban Design  
CP14 Housing Density  
CP16 Open Space  
CP19 Housing Mix  
CP20 Affordable Housing

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

TR4 Travel plans  
TR7 Safe Development  
TR14 Cycle access and parking  
TR15 Cycle network  
TR18 Parking for people with a mobility related disability  
SU3 Surface Water Drainage  
SU5 Surface water and foul sewage disposal infrastructure  
SU9 Pollution and nuisance control  
SU10 Noise Nuisance  
SU11 Polluted land and buildings  
QD5 Design - street frontages  
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  
SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

### **8.1. Main Considerations**

As the principle of the development is not being revisited, the main issues for consideration include a change to the description of the development to correct an error in the maximum amount of business floor (B1) to be provided; the implications arising from the proposed variation of conditions 1, 4 and 6 which include access arrangements into and within the site; changes in the residential mix; the reduction in car parking within the site; accommodating suitable cycle storage and stands and refuse storage in suitable positions and the omission of trees to School Road.

### **8.2. Planning Policy**

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

8.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year

housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).

8.4. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation, 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. Principle of Development

The principle of the development has already been established by the outline planning permission granted under reference BH2018/0256. Issues relating to 'access' to and within the site; 'siting' including footprints of buildings, 'scale' (apart from lift overruns); the overall number of residential units and retention of business (B1) floorspace; relationship with the streetscene; residential amenities for existing and future occupants have already been addressed and are not revisited.

8.6. Variation of the description of the development

As originally submitted under reference BH2016/02535, the description provided by the applicant's agent and throughout the supporting documents referred to the provision of 527sqm of office space (B1) was consistent. The reference to 572sqm of floorspace should have read 527sqm. This is an error that does not affect the principle of the development which and when referring to Condition 5 of BH2016/02535 states that 'the development hereby approved shall not exceed a maximum of 572m<sup>2</sup> of Class B1 floorspace'. As such, the correction is considered to be acceptable.

8.7. A formal decision notice would contain all previously agreed conditions with amendments arising from the variations to conditions 4 and 6. The S016 Planning Agreement allows for the modification, variation or amendment of the planning permission. A Deed of Variation is not therefore required.

8.8. Variation of Condition 1 - Approved Drawings

Condition 1 lists the plans approved as part of the outline planning application. Should the proposed variations to conditions 4 and 6 be considered acceptable, then the list of approved plans would be updated. This is a standard procedural issue and would follow the agreement to the proposed variations.

8.9. Variation of Condition 4 - Number of Units and Mix

Condition 4 states:

"The development hereby approved shall not exceed a maximum of 104 residential units of which no more than 21 units shall be dwellings and no more than 83 units shall be flats. The overall composition of the development shall

comprise a maximum of 48 one-bed units; 34 two-bed units and 22 three-bed units.”

8.10. The submitted plans show an arrangement with 1 additional 1 bed unit and one less 2 bed units which would result in the following mix:

- 49 one-bed units
- 33 two-bed units
- 22 three-bed units

8.11. The proposed revision to the mix of one and two bed units does not give rise for concern in itself and does not impact on the S106 Agreement or contributions. The overall number of units to be provided on the site would not change. The proposal remains policy compliant.

8.12. Variation of Condition 6 - Heights of Blocks

Condition 6 sets clear height limits for parts of the built form as follows:

- a) Development sharing a boundary with the properties in Alpine Close (to the east of the site) shall not exceed 3 storeys in height with a maximum ridge height of 9.75m.
- b) Development sharing a boundary with the properties in Marmion Road (to the east of the site) shall not exceed 4 storeys in height with a maximum height of 11.75m
- c) The development with a frontage onto School Road shall not exceed 4 storeys in height with a maximum height of 12.5m with the exception of (i) development at the corner of School Road and the Rayford House site which shall not exceed 5 storeys with a maximum height of 14.5m; and (ii) development sharing a boundary with the properties in Marmion Road (to the east of the site) which shall not exceed 4 storeys in height with a maximum height of 11.75m

8.13. The submitted plans in general show that the blocks and terrace of dwelling would sit at or below the heights stated, apart from the lift over runs to the three main blocks - Block A, conjoined Blocks B, C and D and conjoined E, F and G. The increase in height varies between 0.4m, 1.0m and 1.4m above the respective stated heights. Given where the lifts are positioned, set back from the edge of roof and having regard to the height of the parapets, the presence of the lift overruns would not be overly perceptible and would not harm or detract from the appearance of the individual blocks or development of the whole.

8.14. It is therefore considered that Condition 6 can be amended to include the wording 'except the lift overruns'. The additional controlling factor would be the revised approved plans lists to which the development should adhere.

8.15. Other matters

The submitted plans and details include matters relating to 'landscaping' which is reserved for consideration under application reference BH2018/02561, Condition 22 (storage of refuse and recycling), Condition 24 (secure cycle parking), Condition 25 (motor cycle parking) facilities; Condition 26 (disabled parking provision).



8.16. Therefore and having regard to the reserved matters and the conditions which would be carried forward in a revised decision notice, the submitted plans include changes to the internal layout of conjoined Blocks B, C and D and conjoined E, F and G. Along with the retention of the existing electricity substation and the removal of the undercroft car parking to blocks F and G, the accommodation of cycle parking, refuse recycling and accommodation of appropriate parking for car, disabled bays and motorcycles, led to changes to the layout within the development.

8.17. In their original form, the plans included a rear path running the length of the terrace (Block G) and the reinstatement of the pedestrian link through to Stoneham Road. These two 'access' elements have since been reviewed and deleted on secured by design grounds.

8.18. Access into the site from School Road has been reduced to reduced to 4.1m which accords with the advice from Transport and on the basis that it would enable the retention of suitable pavements on each side of the road, removing conflicts along main movement routes and crossing points. Movement within the site, crossing between blocks B, D and D to the terraced housing is more 'suggestive' rather than dictated. The removal of bicycle spaces within the run of car parking spaces allows for an improved arrangement within the site. In addition, the removal of the pedestrian link and repositioning of cycle and refuse storage enables the south eastern corner to be 'calmed' as a shared surface.

#### 8.19. Conclusion

The issues arising from the proposed variation of conditions and matters relating to 'access' and 'layout' are considered to be acceptable and would not result in a significant deviation from the scheme approved at the outline stage. It remains a policy compliant development which would provide much needed housing in the City to meet a recognised need.

### 9. EQUALITIES

9.1. As this application relates primarily to the variation of conditions to an extant outline planning permission with some issues arising from 'access' and 'layout', with some matters reserved and other issues to be secured by condition, it is considered that no equalities issues arise.



Cllr. Robert Nemeth

BH2018/02561 - Westerman Complex, School Road, Hove

WISH BH2018/02561 Westerman Complex School Road Hove BN3 5HX  
Reserved matters application pursuant to outline permission

BH2016/02535 for approval of appearance and landscaping. Major  
BH2018/02583 Westerman Complex School Road Hove BN3 5HX Application for  
variation of condition 1 of BH2016/02535 (Outline application for Demolition of  
existing mixed use buildings and erection of 104 dwellings (C3) and 572 Sqm of  
office space (B1) and approval of reserved matters for access, layout and scale.)  
to allow amendments to the approved drawings including alterations to the car  
parking layout and internal layouts. Variation of condition 4 regarding the layout of  
the units to provide one additional one-bed unit, and one less two-bed unit and  
condition 6 regarding the maximum building heights to state that other than lift  
overruns the maximum buildings heights shall be as stated in the condition.



# **ITEM D**

**Westerman Complex, School Road, Hove  
BH2018/02561  
Reserved Matters**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



BH2018/02583 Westerman Complex, School Road, Hove



Scale: 1:1,250





<b><u>No:</u></b>	<b>BH2018/02561</b>	<b><u>Ward:</u></b>	<b>Wish Ward</b>
<b><u>App Type:</u></b>	<b>Reserved Matters</b>		
<b><u>Address:</u></b>	<b>Westerman Complex School Road Hove BN3 5HX</b>		
<b><u>Proposal:</u></b>	<b>Reserved matters application pursuant to outline permission BH2018/02561 for approval of appearance and landscaping.</b>		
<b><u>Officer:</u></b>	Eimear Murphy, tel: 01273 293335	<b><u>Valid Date:</u></b>	14.08.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	13.11.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mr Simon Bareham 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Hyde New Homes C/O Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		

## 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 APPROVE** the reserved matters subject to the following Conditions and Informatives and a Deed of Variation to the existing S106 Agreement dated 1st August 2016 to secure:

- The provision of 10 off-site tree planting in the immediate area

### 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	16.146.100	A	15.08.2019
Block Plan	16.146.206	B	08.02.2019
Proposed Floor Plans - Roof	16.146.200	D	16.01.2019
Proposed Floor Plans - Ground	16.146.201	E	16.01.2019
Proposed Floor Plans – First	16.146.202	E	16.01.2019
Proposed Site Layout - Second	16.146.203	E	16.01.2019
Proposed Site Layout – Third	16.146.204	E	16.01.2019
Proposed Site Layout – Fourth	16.146.205	D	16.01.2019
Proposed Elevations 1 of 3	16.146.220	E	18.01.2019
Proposed Elevations 2 of 3	16.146.221	E	18.01.2019
Proposed Elevations 3 of 3	16.146.222	D	16.01.2019
Car Park Strategy	16.146.226	A	16.01.2019
Statement - CAR PARK SURVEY	WIE11133/TR001/A03		7 July 2016

Statement	TRANSPORT STATEMENT		7 July 2016
Outline Planting Plan (excluding the pedestrian link)	GHD3028	B	14 August 2018

2. 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):
- samples of all brick tiling (including details of the colour, tone and texture)
  - samples of all cladding to be used, including details of their treatment to protect against weathering
  - samples of all hard surfacing materials
  - samples of the proposed window, door and balcony treatments
  - samples of all other materials to be used externally

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

**Reason:** To ensure a satisfactory appearance to the development and to comply with QD14 and HE3 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

3. All bathroom windows hereby permitted shall not be glazed otherwise than with obscured glass; and thereafter permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
4. No development above ground floor slab level of any part of the development hereby permitted shall take place until details for the provision of post boxes to the shared communal flat entrances shall be submitted to and approved in writing and therefore permanently retained as such.  
**Reason:** In the interests of residential amenities and secure by design concerns and to comply with Policy QD27 of the Brighton & Hove Local Plan.

Informatives:

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

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site currently comprises a mix of mainly two storey brick built buildings located on School Road. The units, which were originally constructed as industrial and light industrial units which provided a mixture of uses including a children's play centre, car wash, church, tool hire and tyre repair/MOT centre.

The site backs on to the high boundary wall to the rear gardens of houses in Alpine Road to the east. Stoneham Road terminates at the south corner of the site. To the south are the terraced houses in Marmion Road. Further south and fronting Portland Road is the new medical centre and pharmacy with flats above. The car park to Rayford House, a four storey office building which has prior approval to change to 32 flats, adjoins the site to the north. On the opposite side of School Road is a mix of residential, office and school uses.

- 2.2. Due to the granting of an outline planning permission for the redevelopment of the site, the units are now vacant. The outline planning permission (BH2016/02535) established the principle of the redevelopment of the site for the erection of 104 dwellings (C3) and 572 sqm of office space (B1) and approval of reserved matters for access layout and scale. That permission was subject to a S106 Planning Agreement.
- 2.3. This application seeks to obtain approval for the reserved matters of "appearance" of the buildings and "landscaping" pursuant to the revised outline application BH2018/02538 which sought to correct the description of the development to rectify an error in the description but also to vary Conditions 1, 4 and 6. Application reference BH2018/02538 supersedes the original outline planning application, BH2016/02535, suffice for the timescales for implementation. Application reference BH2018/02538 is also on this agenda.
- 2.4. In terms of the overall scheme and being cognisant of layout issues referred to in the report for BH2018/02538, this application shows a reduction in the amount of office space from 527sqm to 492sqm to the ground floor of Blocks E, F and G. Condition 5 at the original grant of planning permission indicated that the proposed development shall not exceed a maximum of 572m<sup>2</sup> of Class B1 floorspace. This wording does not prevent the restriction. There is also a reduction in car parking spaces from 93 with 11 spaces for disabled drivers to 82, 6 of which are for disabled use. This has arisen due to the need to retain the existing substation fronting School Road. The space had been indicated to provide bicycle storage which had resulted in a need to review the parking arrangement for cars and motorcycles, bicycle parking and storage, refuse/recycling storage
- 2.5. Appearance  
In terms of the external appearance, a reserved matter, the submitted plans demonstrate a collective uniformity in the design of the buildings. A consistency and uniformity across the development is not only presented through the design of the buildings but also in the use of materials which include red brick, gault brick, vertical standing seam cladding, dark grey/bronze cladding, slate for the roofs of the terraced block, dark uPVC windows and doors and metallic balustrading.
- 2.6. The principle street elevations (School Road) of Blocks A; conjoined B, C, D and flank of Block E are all shown with gault brick to the forward projections set against red facing bricks. Top floors are shown to be a light grey vertical standing seam cladding. Windows to the forward projections are slightly varied,

some having side dark grey/bronze infill panels. Metal balconies flank the forward projections apart from Block A which rises to 5 storeys.

- 2.7. Block A shows a stepped arrangement to its west School Road elevation where the stepped 4th storey sees balcony railings across the majority of its width. Its 5th storey is set further back and is shown with light grey standing seam cladding standing seam cladding.. The north elevation of Block A is entirely of red facing brick whilst the south elevation is shown with two-thirds red brick and one-third standing seam cladding which wraps around part of the rear (east) elevation, with the step forward of 4 storeys, facing the terrace, shown as red brick.
- 2.8. Conjoined blocks B,C and D are of a similar appearance to Block A but is of a lesser height being of 4 storeys stepping down to three at the southern end. The top floor is recessed to all blocks The impression of separate blocks is provided by recessed bays containing the internal cycle storage areas between Blocks B/C, and C/D respectively and the entrance to Block C being of vertical standing seam cladding as per the top storeys. Also the steps in height from north to south assist in reading the reduction in height. Along with the forward projections to the front (west) elevation cantilevers over the ground floor creating visual interest and articulation.
- 2.9. The arrangement of materials is not repeated to the rear (east) elevation as the first and second floors cantilever over the ground floor to accommodate undercroft parking. The approach to the doors to the rear integral cycle storage is denoted by a wide bay between demarcated undercroft parking spaces. The flank (north and south) elevations to the end of Blocks B and D are predominantly of red brick with the top floor being of grey standing seam cladding.
- 2.10. Conjoined Blocks E, F and G to the southern part of the site and southern access into the development is presented with two main elevations facing west to address School Road as per Blocks A - D and north facing into the development. The ground floor of Blocks E,F and G include the B1 office floor space and the treatment of the ground floors reflect this activity with a simple glazed arrangement with flats above. The interplay of red and gault brick and standing seam cladding breaks up the mass of the block and emphasises the articulation of the 'bays' and the staggering of heights. Similar dark grey/bronze spandrels are incorporated into the elevational treatment.
- 2.11. The terrace of 21 dwellings rising over two/three storeys with a pitched floor with flat roofed dormers to the front and rear, is shown with forward projections accommodating the main entrance door. The third storey is achieved by incorporating an asymmetrical pitched roof with dormers. Although of a unified appearance and consistent in terms of the use of materials, variation is provided in the use of the light gault brick and red brick. The pattern varies between gault bricks to the forward projection against red brick and vice-versa to the elevation of some units being all red brick. There is also a subtle variation in window types influenced by internal layout, functional requirements and to create visual interest. Recessed entrance doors are shown to have an area of defensible

space overlooked by a kitchen window or a vertical full length narrow feature window to the entrance hall with doors serving communal entrances and storage areas.

2.12. The use of slate for the roofs, cladding and raised 'copings' assists in unifying the terrace as a whole but also demonstrates how it steps in line with the fall in levels across the site from north to south.

2.13. Landscaping

With reference to the reserved matter of 'landscaping' includes hard and soft landscaping. The hard surfaces includes the roadway, pavements, crossing demarcation and shared surfacing and soft planting includes the 'green' space to the northern part of the site, the rear gardens and trees to the terraced dwellings and the trees to the in-site carparking area. The original outline application included a layout plan with a higher percentage of 'green' strips, tree planting between parking bays with hedging and street trees in the public highway, outside the application site.

2.14. Internal changes, the requirement to retain the existing substation, the need to accommodate suitable bicycle parking and storage, refuse and recycling, disabled bays provision and parking for motor cycles has had implications for the parking arrangement. Therefore, the 'reserved' matters plan pursuant to the varied outline application BH2018/02561 which is on this agenda, shows 6 trees and hedging within the site, between parking bays, 15 trees within some gardens to the rear of the terraced dwellings and areas of soft landscaping to the north of Block A and storage area. No trees are included to the street due to the presence of services. The Outline planning plan provides details of the planting mix for the planting beds and tree species.

2.15. In order to offset the limited number of trees within the development and the lack of provision on-street, the applicant is offering to provide funding for ten trees in the surrounding area, to be secured by a Deed of Variation to the existing S106 Agreement.

### 3. RELEVANT HISTORY

There were a number of applications relating to the individual buildings which are currently on the site. There were no previous applications that directly related to the outline planning application.

3.1. Pre-application advice

Pre-application advice had been provided by officers over a number of years regarding the redevelopment of this site. The outline planning application followed advice provided by officers in October 2015. It was not presented to the Design Panel.

3.2. **BH2016/02535:** Outline application for Demolition of existing mixed use buildings and erection of 104 dwellings (C3) and 572 Sqm of office space (B1)

and approval of reserved matters for access, layout and scale. Approved 3rd August 2018 along with a S106 Planning Agreement.

- 3.3. **BH2018/02538:** Application for variation of condition 1 of BH2016/02535 (Outline application for Demolition of existing mixed use buildings and erection of 104 dwellings (C3) and 572 Sqm of office space (B1) and approval of reserved matters for access, layout and scale.) to allow amendments to the approved drawings including alterations to the car parking layout and internal layouts. Variation of condition 4 regarding the layout of the units to provide one additional one-bed unit, and one less two-bed unit and condition 6 regarding the maximum building heights to state that other than lift overruns the maximum buildings heights shall be as stated in the condition. Under consideration.

#### **4. NEIGHBOURS**

Seven **7** letters were received in relation to the reserved matters application six of which were from four persons and one letter signed by occupants of three households. A number of the comments and objections raised relate to matters already determined at the outline stage which established the access, siting and scale of the development as well as the number of residential units. In summary, the objections include:

##### 4.1. Traffic, Parking, Access

- Additional traffic, narrowing of the road will cause congestion and danger to school children
- Width of the road does not support parking on both sides
- Unacceptable reduction in parking spaces, more should be provided.
- No parking marked for businesses occupying the office block
- Will not be able to park outside their own property

##### 4.2. Design Issues

- Inappropriate height with lift exceeding the height restriction even if set back
- Overdevelopment
- Taller than the existing buildings
- Should not be more one storey

##### 4.3. Residential Amenity

- Direct overlooking, loss of privacy to three dwellings in School Road from windows and balconies increased due to storey heights
- Disturbance at weekends and evenings
- Impact on view and loss of sunlight
- Impact from headlights on residential properties
- Detriment to property values

#### **5. CONSULTATIONS**

##### **External**

5.1. **Sussex Police:** Comments as per application reference BH2018/002583 which included concerns about:

- The long, unobserved with to access to the rear of all 21 houses has the potential to increase the fear of crime in the residents and generate crime
- The entrance to the rear garden pathway is adjacent to the proposed pedestrian link and would require lighting to create a more safe and secure environment for the residents when using this pathway,
- Consideration should be given to creating another entrance at the opposite end at plot No 1 so that the 10 / 11 dwellings respectively are equally accessed by the pathways, reducing the fear of crime and reducing travel distances.
- The gate indicated would have to be vandal resistant and the means of accessing / locking it made available to all residents. This would also apply to any additional gates
- Recommend that the rear garden boundary fences overlooking this rear pathway consist of 1.5 metre high close board fencing topped with 300mm of trellis. This arrangement can achieve both security and surveillance requirements into an otherwise unobserved area and a security height of 1.8 metres
- The link to Stoneham Road may be beneficial for the surrounding community to access the train station, this opens up the development to excessive permeability.
- The link (located between block G and plot 21) present, the proposed cycle store and the gated entrance to the rear gardens would be vulnerable to unauthorised and unobserved access and attack.
- Removing the pedestrian access would remove the threat to the cycle store and unobserved access to the vulnerable rear gardens.
- The whole of this area would benefit from lighting conforming to BS5489:2013 throughout its route
- Concerns are expressed about the provision of refuse stores in front of the housing as it will impinge upon the pedestrian pathways causing obstruction and congestion.
- Additionally there is the concern of damage to the closely parked vehicles given the parking proposals. The manual for streets recommend that there is a minimum of 2 metres to allow access. I feel the inclusion of the bins on the pedestrian walkway has the potential to infringe this.
- The boundary between public space and private areas should be clearly indicated. Where dwellings front the public domain i.e. the footpath, demarcation in the form of defensible planting railings is to be present
- Recommend the postal arrangements for the flats is through the wall, external or lobby mounted secure post boxes.
- Strongly urge the applicant not to consider letter apertures within the flats' front doors. The absence of the letter aperture removes the opportunity for lock manipulation, fishing and arson attack and has the potential to reduce unnecessary access to the block. It also reduces unnecessary access to the block.

- From a crime prevention perspective for the apartment blocks, it will be imperative that access control is implemented into the design and layout to ensure control of entry is for authorised persons only.
- SBD recommends that all communal dwellings with more than 10 dwellings or bedrooms should have visitor door entry system or access control system to enable management oversight of the security of the building i.e. to control access to the building via the management of a recognised electronic key system. It should also incorporate a remote release of the primary entrance door set and have audio visual communication between the occupant and the visitor.
- In order to create a safe and secure communal environment for residents occupying blocks of multiple flats, bedsits or bedrooms, and to reduce the opportunity for anti-social behaviour by restricting access to all areas and floors of the building to all residents, SBD asks for compartmentalisation. Detailed advice on compartmentalisation can be found within SBD Home 2016 on the SBD website.
- Under-croft parking to the rear of blocks B, C & D, should be illuminated for the safety and security of the users and their vehicles and recommend that the applicant seek advice from Sussex Police Counter Terrorist Security advisers with regards to the scheme under-croft as soon as it is practicable
- The secure cycle stores should have PIR lighting installed internally and that the front doors are lockable.
- Given that the proposed cycle store has double doors, a door closer is to be fitted along with spring loaded automatic shoot bolts to the unlocked door to ensure it closes first. This arrangement would work very well for the refuse store as well. Sheffield hoop style stands are to be of galvanised steel bar construction of at least 3mm thickness.
- Concerned over the parking arrangements opposite block G with manoeuvring vehicles and pedestrians accessing the residential and retail elements of block's F&G.
- The rear access point to block C is to have anti-vehicle measures included to remove any contact with residents accessing the block and manoeuvring vehicles.
- With respect to the office element of the development. 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.

**5.2. Comments in relation to amended plans:** No objections. but asks that

- Where the bin stores abut the vehicle parking bays (plots 1 - 21) a form of barrier such as a knee rail is implemented to the front of the bay as well as demarcating the route to the bin assembly points to assist in preventing damage to adjacent vehicles when manoeuvring refuse bins on collection days and will stop residents manoeuvring bins between parked vehicles
- Given the close proximity of the residential parking to the three retail units, recommend that the residents parking is protected so it is not utilised by the retail staff and their visitors.

**Internal**



5.3. **Sustainable Transport:** No objections in principle. It is noted that the development already has planning consent and therefore comments have been provided on the following revisions:

5.3.1. Pedestrian Access

- loss of pedestrian routes within the site on both sides of each vehicle access with no alternative routes provided
- less comfortable, safe and attractive pedestrian routes
- mobility impaired users would struggle to access the eastern side of the development without sufficiently wide routes between parked cars
- unclear whether dropped kerbs would be provided
- width of the pedestrian routes alongside the access roads have also been reduced and varies from approximately 1.7m to 1m, further reduced by proposed cycle parking. Unnecessary as the access roads could be reduced to 4.1m (currently shown as 4.5m and 4.8m)
- would expect at least one 2m wide footway alongside each access road with other footways being a minimum of 1.5m or absolute minimum of 1.2m at pinch points
- introduction of bin stores for each dwelling on the eastern side reduces the pedestrian route to 1.2m. This would be acceptable alongside pinch points. However, the landscaping plan (submitted for BH2018/02561) indicates the whole route is in fact 1.2m. It is recommended that this be widened to 1.5m.
- doors opening outwards onto narrow pedestrian routes are request to open inwards where opening onto the public highway
- breaks in car parking to the eastern side to provide pedestrian access have been removed, reading more as a traditional carriageway without demarcated pedestrian routes but this should be revised to in order to be closer to the consent scheme
- demarcating these routes using raised crossings to provide pedestrian priority and reduce traditional carriageway feel as well as widening pedestrian routes on the east side of the development, repositioning cycle parking where it obstructs pedestrian movement;
- amend kerb radii to slow speeds; reinstate breaks in parking to provide access to eastern side of development
- the stepped pedestrian access up to Stoneham Road would be supported in terms of allowing better access for residents, including towards Aldrington Station, preferably be ramped to allow access by all
- noted this access was removed and although any addition would be beneficial, the Highway Authority would not wish to object on the grounds of accessibility where the consented scheme provides no route at all

5.3.2. Vehicle Access

- No changes apart from deficiencies in pavement widths

### 5.3.3. Car Parking

- The approved ground floor plan shows 89 spaces plus a car club bay (90).
- 78 car parking spaces are shown, being 5 less than indicated in the Transport Statement Addendum and 12 fewer than consented
- both figures include the 14 on-street spaces created by removing the existing crossovers which would be available for all permit holders to use and not associated with the development itself
- A condition was attached restricting the ability of future residents, other than Blue Badge holders from applying for on-street parking permits. It is therefore considered that the impacts of the reduced on-site parking provision on surrounding streets will be managed.
- As such, and also noting that the creation of additional on-street parking will help cater for additional visitor demand that may arise, no objections are raised in this instance.
- It is noted that some of the changes requested to provide satisfactory pedestrian access (see comments above) and disabled parking (see comments below) may result in a small further reduction in car parking. For the reasons stated above, it is not considered that this would result in a significant impact upon surrounding streets.

### 5.3.4. Loss of street trees

- the street trees along the site frontage should be retained
- final design of the on-street parking proposals would be subject to a S278

### 5.3.5. Disabled Parking

- 6 disabled parking bays are shown on site
- unclear how many wheelchair accessible units are retained and therefore whether the SPD14 minimum requirement is met
- design is not in accordance with Traffic Advisory Leaflet 5/95, as required by Local Plan policy TR18. In order to be compliant, a 1.2m access zone should be provide on both sides of each bay, although this can be shared between adjacent bays.

### 5.3.6. Cycle Parking

- Cycle parking would remain unchanged but repositioned with additional details and changes requested to certain locations, stand types and spacing
- Sheffield stands are preferred and laid out as per Manual for Streets
- Where two-tier storage is used, space between and aisle widths should be appropriate
- Individual cycle stores for the houses may be acceptable where not communal

### 5.3.7. Trip Generation

- Reduction in parking has the potential to result in a small reduction in vehicle trips compared to the consented scheme as a result of the reduction in car parking.

In the event that the application is approved, an additional condition relating to the car park layout and pedestrian routes. It is noted that the comments provided are also of relevance to the associated reserved matters application (BH2018/02561)(landscaping).

5.4. **Comments on Amended Plans:** No comments.

## 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) (2018)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

SA6 Sustainable Neighbourhoods

CP1 Housing Delivery

CP2 Planning for Sustainable Economic Development

CP3 Employment Land

CP7 Developer Contributions

CP8 Sustainable Buildings

CP9 Sustainable Transport

CP10 Biodiversity

CP12 Urban Design

CP14 Housing Density

CP16 Open Space

CP19 Housing Mix

## CP20 Affordable Housing

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

TR4 Travel plans

TR7 Safe Development

TR14 Cycle access and parking

TR15 Cycle network

TR18 Parking for people with a mobility related disability

SU3 Surface Water Drainage

SU5 Surface water and foul sewage disposal infrastructure

SU9 Pollution and nuisance control

SU10 Noise Nuisance

SU11 Polluted land and buildings

QD5 Design - street frontages

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

SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

### 8.1. Principle

The principle of this development has already been established by the extant planning permission granted under application reference BH2016/02535 which is the subject of variations under application reference BH2018/02538 which is also on this agenda. The approach is such that the details of an application for reserved matters must be in accordance with the outline approval. The principle of the development is not being revisited nor are the matters of access, siting and layout.

### 8.2. Material Considerations

The key considerations in this case relate to "appearance" and "landscaping" which were 'reserved' at the outline stage for later determination. It is acknowledged that changes arising under reference BH2018/02538 including the need to retain the existing substation to School Road, for example, has had an impact on providing suitable bicycle storage. This, along with the need to accommodate refuse and recycling storage, water storage, motorcycle and disabled parking, has resulted in changes to the parking layout, arrangement of spaces, landscaping and tree planting. The exclusion of trees to School Road is due to the presence of underground services.

8.3. The conditions as originally imposed, with variations to 1, 4 and 6 have been transferred to application reference BH2018/02538. It is only in exceptional circumstances that additional conditions would be imposed on a 'reserved' matters application.

#### 8.4. Appearance

The appearance of the buildings seek to inject a new character along School Road and within the site. The siting and scale of the buildings determined the mass of the buildings and with that if followed, how the buildings sought to break up that mass, to articulate the elevations, compliment the changing heights across the site and development.

- 8.5. Consideration has been given to the architectural context of the site, the street sections, use and pattern of materials. Taking positive cues from the surrounding area and other high quality developments, a palette of 5 main materials are presented - red brick, gault brick, grey standing seam cladding, glass and metal. Slate is proposed for the roofs of the terrace of the 21 dwellings.
- 8.6. The arrangement of this palette on the elevations, along with the articulations, step forwards and setbacks, provides an acceptable 'quiet' appearance that is not visually busy. The set back of the top floor to the flatted blocks has the effect of reducing the sense of height and mass.
- 8.7. The treatment of the terrace is also suitably varied to create visual interest without being contrived. The treatment of the terrace counter balances the appearance of the rear elevation of Blocks B,C and D which sees the upper floors projecting over the ground floor with its undercroft parking. As stated in the description of the proposal, the incorporation of raised fire breaks as a feature and a pattern of fenestration along with materials enlivens the terrace.
- 8.8. The inclusion of the office floor space to the ground floors of Blocks E, F and G with full length glazing is legible yet retaining a degree of domesticity in its scale/extent.
- 8.9. Each block including the terrace provide a positive and legible address to the respective streets that they front. In the case of the terrace and the north elevation of Block E, F and G this is to the 'street' within the development.
- 8.10. Therefore and as with the assessment at the outline stage, it is considered that the vertical emphasis to the School Road frontage, offset with articulations with recessed sections and notional 'bays' created by the built form but also the use of materials is acceptable. The drawings also demonstrate that with appropriate detailing and proportions the buildings would not appear overly bulky or visually bland. The townhouses to the rear of the site and their external appearance would be an appropriate design approach.
- 8.11. Visually it is considered that the proposed palette and arrangement of materials would result in an acceptable external appearance with a uniformity and consistency across the scheme as a whole but at the same time allowing for a degree of variation and visual interest. The development has its own identity and at the same time 'fits' with the general colours and tones that are locally distinctive and therefore complements that the existing built form and new developments such as the building on the corner of School Road, fronting Portland Road.

8.12. It is therefore considered that the proposal accords with Policy CP12 of City Plan Part One and 'saved' Policy QD5 of the Brighton and Hove Local Plan (2016).

### **8.13. Landscaping**

Local planning policies and guidance and the NPPF require high quality landscaping and that development delivers a net gain in biodiversity terms. Landscaping, both hard and soft, including the space between and around buildings, is typical of an urban environment.

8.14. The space that remains seeks to balance the competing demands of the development, seeking to subtly differentiate between the public and private domains or as is the case where developments sit on the back edge of a pavement, the semi-private domain. Through the use of a limited range of hard surfacing materials, the different functions of space can be achieved and this is indicated in the submitted plans. Parking spaces are clearly differentiated from the pavements and the internal road, as well as shared surfaces. Crossing points are clearly denoted at key internal junctions.

8.15. Where soft landscaping is proposed is it considered that it will deliver biodiversity gains. This includes the private gardens to the rear of the terraced housing, between car parking spaces along with hedging and to the northern part of the site. Although there are only 6 trees within the public domain of the development, as a whole 21 trees are proposed in total.

8.16. Although the scheme does not include green roofs as initially suggested at the outline stage, it is considered that the balance between the appropriate greening of the development, the creation of a new urban street, an appropriate amount of parking and renewables, that the landscaping scheme, on balance, is appropriate and acceptable for this location. These elements would deliver some biodiversity gains by utilising native species of local provenance and attract wildlife.

8.17. Overall it is considered that this hard and soft landscaping successfully accommodates the competing needs of a new urban development and new urban street and would provide a legible environment with an improvement in the biodiversity value of the site. There are also functional reasons for the landscape plan and the loss of tree planting to School Road which is capable of being mitigated against to the benefit of the immediate area through the offer of the applicant to provide for 10 trees within the surroundings. This can be achieved through a Deed of Variation to the existing S106 Planning Agreement.

### **8.18. Residential Amenity**

The resultant external appearance is directed by the internal floor plans and room designations and with that, the siting of balconies were proposed. As the majority of the flats are single aspect with those to the end of blocks having a partial dual aspect, balconies are provided to serve main living areas. The balconies are also positioned to avoid a loss of privacy from one unit to the other.

8.19. At the same time, the presence of existing dwellings had been taken into consideration at the pre-application and outline stage. The concerns expressed about loss of light, overlooking and loss of privacy were raised by residents of School Road. In this urban environment it is considered that the development follows the existing prevailing development pattern of the predominantly residential area. Despite the presence of more windows and some balcony areas, the distances from one site of the street to the other is considered to be acceptable in an urban street.

8.20. At the outline stage, issues of daylight, sunlight and overshadowing were considered and considered to be acceptable.

8.21. Parking

The variation to the outline planning application and the 'landscaping' of the site sees a reduction in car parking provision within the site. This reserved matters application was accompanied by the original Transport Statement and an Addendum Statement which explains and justifies the reduction to 82 car parking spaces with 6 identified for disabled use. The proximity to the railway station, bus services and provision of a car club space reduces the need to rely on the private car. In addition the appropriate amount of cycle parking spaces and storage is provided.

8.22. The reduced car parking did not raise an objection from Sustainable Transport at the initial outline stage. Comments made in respect of the variation of conditions and this reserved matters application were brought to the applicant/agent's attention and further amendments and changes were introduced including ensuring that pavement widths to each side of the access roads could be achieved by narrowing the carriageway and the provision of a shared surface ensure that the parking spaces for vehicles, disabled users and motorcycles would function safely and would not cause conflicts in access and manoeuvring.

8.23. As with the original and amended outline applications, the appropriate conditions have been imposed to secure and control the car parking spaces, including those for blue badge holders and those on the street which can be utilised by permit holder.

8.24. On the whole it is considered that in a sustainable location such as this, the parking provision within the site, the provision of additional space on School Road and the amount of cycle parking / storage achieves an appropriate balance in planning terms.

8.25. The landscaping scheme retains two demarcated informal crossing points. Doors and access points are clearly identified with wider spacing where the tree/hedges are provided to assist in creating legible crossing from one side of the development to the other should pedestrians desire to cross. Given the length of the internal road and the intimate nature of the development, it is considered that the development would be self-regulating in terms of the movement of vehicles and pedestrians.

#### 8.26. Conclusion

Bearing in mind that the principle of the development has been accepted including the quantum of residential units, and matters of access, layout and scale have been agreed, it is considered that the 'appearance' of the development and approach to 'landscaping' are considered to be acceptable. The simple palette of materials responds well to the mass of the built form and creates a positive uniformity across the site. The hard and soft landscaping areas compliments this urban development subtly integrated around buildings and between car parking spaces. It is a fluid development that creates interaction and responds well to its context visually and physically whilst improving the biodiversity value of the site as well as providing for trees in the surrounding area as mitigation for the inability to accommodate street trees in School Road.

8.27. It is therefore considered that the details submitted in respect of the two remaining reserved matters are acceptable and accord with the principle of the outline planning application. As it is only in exceptional circumstances that additional conditions could be imposed on a 'reserved' matters application, it is considered that there are sufficient conditions attached to the outline permission to ensure further control over various aspects of the development, including parking.

### **9. EQUALITIES**

9.1. As this application relates primarily to the variation of conditions to an extant outline planning permission with some issues arising from 'access' and 'layout', with some matters reserved and other issues to be secured by condition, it is considered that no equalities issues arise.



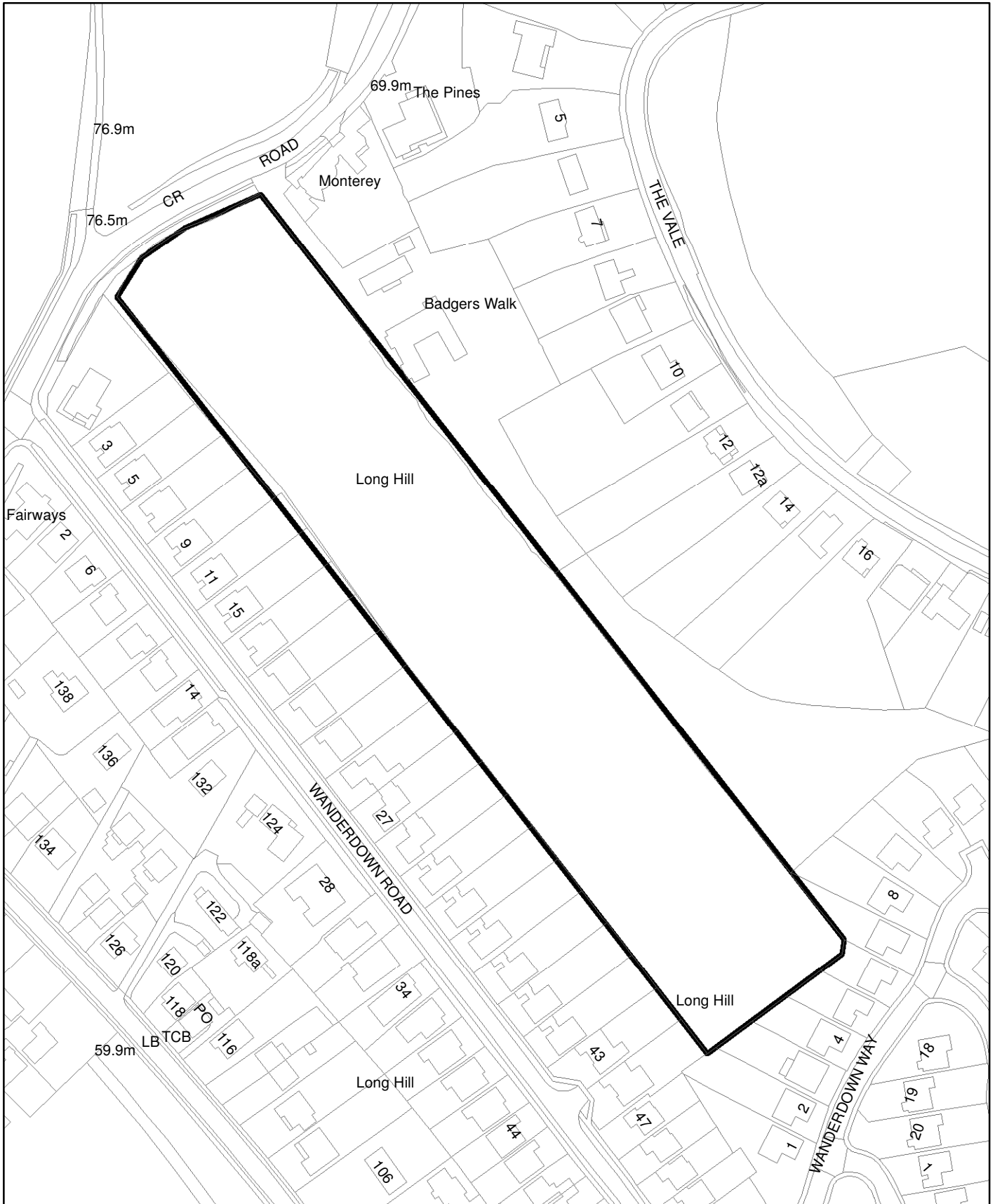
# **ITEM E**

**Land at rear of 1-45 Wanderdown Road  
BH2018/01336  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



# BH2018/01336 Land At Rear Of 1-45 Wanderdown Road, Brighton



Scale: 1:1,873



<b><u>No:</u></b>	<b>BH2018/01336</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>Land At Rear Of 1-45 Wanderdown Road Brighton</b>		
<b><u>Proposal:</u></b>	<b>Erection of 3no residential dwellings comprising of 2no four bedroom dwellings and 1no three bedroom dwelling incorporating parking, landscaping and associated works.</b>		
<b><u>Officer:</u></b>	Paul Vidler, tel: 292192	<b><u>Valid Date:</u></b>	26.04.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	21.06.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	20.03.2019
<b><u>Agent:</u></b>	ECE Planning Limited Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road
<b><u>Applicant:</u></b>	Mr Peter McDonnell Goring Road Worthing BN12 4AP	C/O ECE Planning Brooklyn Chambers	11 Goring Road

## 1. PURPOSE OF REPORT

For the reasons set out in section 3. of this report, the Committee is being asked to review its decision, made at the 6 February 2019 Committee, to refuse planning application BH2018/01336: Land rear of 1 - 45 Wanderdown Road (“the application”) and to determine either that the decision of the Committee to refuse the application be upheld or that the officer “Minded to Grant” recommendation set out in the report to that Committee be agreed.

## 2. RECOMMENDATION

2.1 That the Committee reviews its decision to refuse the application;

2.2 That having reviewed its decision the Committee either:

- (a) Agrees to uphold its decision to refuse the application and, if so, on all or some only of the grounds; or
- (b) Agrees the officer recommendation set out in the report to the 6 February 2019 Planning Committee, which report is attached as Appendix 1

## 3. BACKGROUND

1. The application was considered by Planning Committee on 6 February 2019. The officer report from that meeting, updated to include the items on the Additional Representations list, is appended as Appendix 1 to this report. Members resolved to refuse the application contrary to the recommendation on the grounds set out as headings to paragraphs 5. to 10. (inclusive) below.

The wording of the reasons for refusal has been drafted and is awaiting final agreement. A decision has not been formally issued on the application.

2. On the day following the committee meeting, 7 February, the applicant's agent wrote to the council setting out their concerns about the decision. Based on the conclusion of the Planning Inspector at the appeal for the previous scheme that 9 dwellings would not have a harmful ecological impact, the applicant considers the grounds of refusal are very weak and could not be substantiated at appeal.. The applicant has requested that the application is taken back to the next available Planning Committee for reconsideration and that if the application is refused the decision will be appealed and an award of costs against the Council sought.
3. Further correspondence was received from the agent on 12 February setting out their opinion that the committee did not pay due regard to the detailed application submissions on ecological matters, the comments of the County Ecologist or the recommendations of officers in endorsing approval of this scheme. The agent considers that undue weight was given to anecdotal information on site habitat/ecological conditions and representations made by non-statutory consultees. They consider that members were not properly informed on matters relating to ecological impact to assess whether the proposal would result in harm, which could not be mitigated for as recommended clearly by the previous Planning Inspector and subsequently the County Ecologist.
4. The agent has provided the following comments which, they submit, address the grounds for refusal agreed by Committee, with reference to the submitted Ecological Impact Assessment and findings of the County Ecologist:
5. Danger to biodiversity and ecology
  - The impact of the proposal on biodiversity and ecology is discussed at length within the applicant's ECOSA – in full Ecological Impact Assessment dated December 2018 (EclA).The report concludes positively at paragraph 6.1 that subject to mitigation (secured by condition and Natural England Licencing) the proposal would be acceptable offering many 'net gains' for biodiversity on the site.
6. Loss of site for endangered species: badgers, bats, reptiles, birds
  - The impact of the proposal on biodiversity and ecology is discussed at length within the EclA.
  - Badgers are discussed at sections 4.6,5.6 and 6.1 suggesting clearly that the potential closure and replacement of a badger sett would be acceptable. (secured under separate licence).
  - Bats are discussed at Sections 4.4, 5.5 and 6.1 suggesting clearly that the development would result in no harm, with habitat enhancements secured in the form of 10 new bat boxes on site. (to be secured by condition).

- Reptiles are discussed at Sections 3.9, 5.8 and 6.1 suggesting clearly that the development would result in limited harm, with reptile translocation proposed alongside habitat enhancements secured in the form of 10 new hibernacula on site. (to be secured by condition).
- Birds are discussed at Sections 4.9, 5.7 and 6.1 suggesting clearly that the development would result in limited harm, with habitat enhancements secured in the form of 12 new bird boxes on the new houses and within the site itself. (to be secured by condition).
- The report also refers to other identified species, which are discussed at length also in the EclA.

7. The Local Wildlife Site should be looked after

- The Local Wildlife Site (LWS) is a non-statutory designation and relates principally to the chalk grassland and scrubas set out in paragraphs 4.2.1 of the EclA. The loss of a small area of this grassland area will be compensated for through the introduction of the green chalk grass roofs which will result in a 'net gain' in calcareous grassland on site and be secured in the long term. (Para 5.3.4 EclA).
- Overall, the impact on the non-statutory designation is discussed at length through the EclA, concluding that impacts can be mitigated for positively through enhancements secured by condition, particularly in respect of the identified chalk grassland areas.

8. All comments made by the Sussex Wildlife Trust agreed

- Sussex Wildlife Trust (SWT) are a non-statutory consultee and therefore the weight attributed to such comments should be limited. The statutory response in respect of ecological matters must reasonably defer to the County Ecologist on behalf of BHCC.
- Notwithstanding the above they consider that the EclA addresses each of SWT concerns and the proposal will maintain fully green networks from the South Downs National Park to the north. The layout plan attached clearly shows how the proposals maintain such networks through the site; both east-west and north-south through retention of large areas of open grassland and woodland outside of the footprints of the proposed homes; furthermore, fences would not be solid to allow movement of mammals, reptiles and invertebrates.
- As cited previously, any ecological impacts can be positively mitigated for through habitat enhancements and reprovion. (to be secured by condition).

9. The inspector making the previous decision was not aware of the granting of the Meadow Vale planning permission which should be taken in conjunction

- The cumulative effect of this development is not considered relevant by reason of the scale of development proposed and significant distance from the application site, separated by residential properties on The

Vale itself and large swathes of unmanaged woodland. It must also be noted that the appeal decision for The Vale also considered mitigation appropriate in relation to ecological matters.

- Notwithstanding this conclusion, they would make it clear that a scheme of just 3 houses must be considered on its individual merits and as cited previously, the proposal is considered acceptable subject to mitigation.

10. The gain of 3 houses did not mitigate the loss of the site

- The gain of 3 houses is considered to mitigate fully for any habitat loss on the site for the aforementioned reasons as set out clearly in the EclA, resulting in many positive gains for biodiversity on site through future mitigation and management.
- It must also be considered fully that the previous Appeal Inspector considered the impact of 9 houses to be mitigatable in respect of ecological impact in 2017. Therefore, this is a significant and vital material consideration in the determination of this application for an appreciably smaller number of units and physical form of development.
- It is clear in their view that the previous level and form of development proposed (9 units) would have had a materially worse impact on ecology/biodiversity than the proposed 3 units and this must weigh heavily in favour of this significantly reduced scheme.

11. Officers have considered the points raised by the agent and have taken legal advice. The National Planning Policy Guidance (NPPG) (Paragraph: 049 Reference ID: 16-049-20140306) advises that unreasonable behaviour placing a local planning authority at risk of costs can include “not reviewing their case promptly following the lodging of an appeal”. As the NPPG states that its list of circumstances in which costs can be awarded is not exhaustive, it is considered the expectation of case review could also apply prior to an appeal being lodged. In the circumstances of this application, the agent promptly wrote to the council requesting a review of its decision.

12. Officers are of the view that, given the points raised above relating to the current application for 3 dwellings on the site, the information submitted with the application, the views of the County Ecologist, the ecological mitigation measures set out in the recommended conditions and the conclusions of the Planning Inspector at the previous appeal for 9 dwellings on the site, the council would not be able to adequately defend a refusal of planning permission at appeal, resulting in the risk of an award of costs against the Council.. In these circumstances, the committee is requested to review its decision to refuse the application and to determine either that its decision to refuse should be upheld or that Minded to Grant planning permission be granted in accordance with the officer recommendation on the application.



<b><u>No:</u></b>	<b>BH2018/01336</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>Land At Rear Of 1-45 Wanderdown Road Brighton</b>		
<b><u>Proposal:</u></b>	<b>Erection of 3no residential dwellings comprising of 2no four bedroom dwellings and 1no three bedroom dwelling incorporating parking, landscaping and associated works.</b>		
<b><u>Officer:</u></b>	Jonathan Puplett, tel: 292525	<b><u>Valid Date:</u></b>	26.04.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	21.06.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	20.03.2019
<b><u>Agent:</u></b>	ECE Planning Limited Worthing BN12 4AP	Brooklyn Chambers	11 Goring Road
<b><u>Applicant:</u></b>	Mr Peter McDonnell Goring Road Worthing BN12 4AP	C/O ECE Planning Brooklyn Chambers	11 Goring Road

## 1. RECOMMENDATION

1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be MINDED TO GRANT planning permission subject to the Conditions and Informatives as set out hereunder, SAVE THAT should the s106 Planning Obligation not be completed on or before the 29<sup>th</sup> May 2019 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in section 10 of this report:

### 1.2. S106 Heads of Terms

A contribution of £6000 towards sustainable transport infrastructure in the vicinity of the site.

#### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Site Location Plan	6512 PL01	Rev B	14/12/2018
Proposed Site Plan	6512 PL02	Rev F	14/12/2018
Proposed Site Plan Upper Floor	6512 PL03	Rev E	14/12/2018
Proposed Site Plan Roof Plan	6512 PL04	Rev D	14/12/2018
Proposed Floor Plans	6512 PL05	Rev D	14/12/2018
Proposed Floor Plans	6512 PL06	Rev D	14/12/2018
Proposed Street and Garden Elevations	6512 PL07	Rev B	14/12/2018
Proposed Sections	6512 PL08	Rev A	14/12/2018

Proposed Elevations	6512 PL10	Rev A	14/12/2018
Proposed Elevations	6512 PL11	Rev A	14/12/2018
Proposed Elevations	6512 PL12	Rev A	14/12/2018
Proposed Access Road	141102- TK03		14/12/2018

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.

### **Materials / Permitted development**

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 cladding and wall finishes;
- b) Details of all hard surfacing materials
- c) Details of the proposed window, door and balcony treatments
- d) Samples of all other materials to be used externally

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

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies QD14/HE6 of the Brighton and Hove Local Plan and CP12/CP15 of the Brighton and Hove City Plan Part One.

4. No extension, enlargement, alteration of the dwellinghouses or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority. No gate, fence, wall or other means of enclosure shall be constructed other than those which form part of the approved scheme of landscaping, without planning permission obtained from the Local Planning Authority.

**Reason:** The Local Planning Authority considers that further development could cause detriment to the character of the area and for this reason would wish to control any future development to comply with policy QD14 of the Brighton and Hove Local Plan and policies CP12 and SA5 of the Brighton and Hove City Plan Part One.

### **Transport**

5. The vehicle parking areas shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles

belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.

**Reason:** To ensure that adequate parking provision is retained and to comply with policy CP9 of the Brighton and Hove City Plan Part One and SPD14: Parking Standards.

6. 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 disturbance to 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

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.

7. Notwithstanding the submitted details, no development above ground floor slab level of any part of the development hereby permitted shall take place until full details of the access road including pedestrian footway, shall have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be completed prior to the occupation of the development, from which point the access road shall be available for use at all times by all vehicles accessing and servicing the site and the footway retained for pedestrian use.

**Reason:** To provide safe and inclusive access in accordance with Brighton and Hove City Plan Part One policies CP9 and CP12 and Local Plan policy TR7. The pre-commencement condition is required in order to ensure that construction is not progressed to a stage where adequate footway provision cannot be retrospectively incorporated.

8. No development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme for landscaping and highway works at the site access shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of all proposed vegetation clearance and regrading of the bank either side of the access from Ovingdean Road that is required to achieve visibility splays as per guidance in DfT's Manual for Streets. No part of the development hereby approved shall be occupied until the approved highway works have been carried out in accordance with the approved scheme.  
**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the City Plan Part One. The pre-commencement condition is necessary as further details are required to ensure that the access and associated earthworks can be constructed as shown.
9. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton and Hove Local Plan and SPD14: Parking Standards.

### **Sustainability / access standards**

10. None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the Brighton and Hove City Plan Part One.
11. None of the residential units hereby approved shall be occupied until each residential unit built has achieved 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 and Hove City Plan Part One.
12. The development hereby permitted shall not be occupied until the dwelling(s) 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 and Hove Local Plan.

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

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton and Hove Local Plan, policy CP8 of the Brighton and Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan Waste and Minerals Plan.

### **Landscaping / Ecology / Trees**

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

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

15. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

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

16. Prior to the first occupation of the development hereby approved, details of landscaping treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- a) A scaled plan showing vegetation to be retained and trees and plants to be planted. Trees to be planted will include driveway, plots 1-3 and woodland areas;
- b) The additional screening tree planting to be planted to the north of plot;

- c) Proposed hard landscaping and boundary treatments;
- d) a schedule detailing sizes and numbers of all proposed trees/plants;
- e) Sufficient specification to ensure successful establishment and survival of new planting.

No gate, fence, wall or other means of enclosure shall be constructed other than those which form part of the approved scheme of landscaping, without planning permission obtained from the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

17. 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 new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).  
**Reason:** Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with SPD 06, QD 16 (Trees and Hedgerows).
18. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, 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. 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 and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One and SPD06:Trees and Development Sites.
19. Prior to the commencement of the development hereby approved (including any ground clearance, tree works, demolition or construction), details of all tree protection monitoring and site supervision by a suitably qualified tree specialist (where arboricultural expertise is required) 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.

**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 and Hove Local Plan and CP12/ CP13 of the Brighton and Hove City Plan Part One and SPD06:Trees and Development Sites.

20. Prior to the commencement of the development hereby approved (including any ground clearance, tree works, demolition or construction), a pre-commencement meeting shall be held on site and attended by the developers' appointed arboricultural consultant, the site manager/foreman and a representative from the Local Planning Authority to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing 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 and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One and SPD06:Trees and Development Sites.

21. Prior to the occupation of the development hereby approved details of the proposed Access Facilitation Pruning (see BS5837:2012) shall be submitted to and approved in writing by the Local Planning Authority. The approved tree pruning works shall be carried out in accordance with BS3998:2010. Due to the importance of elm trees to the City of Brighton and Hove (Brighton and Hove City Plan - Policy QD16 3.70) and home to the National Elm Collection, and to help elm disease management in the City, elm trees must 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 Brighton and Hove Local Plan and CP12 of the Brighton and Hove City Plan Part One and SPD06: Trees and Development Sites.

22. Prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat shall be carried out within the period of 6 months leading up to the commencement of development, the result of this survey and updated associated mitigation/compensation measures, shall be submitted to and approved in writing by the local planning authority in consultation with specialist advisors. Site works shall be carried out in complete accordance with the survey unless otherwise agreed in writing by the local planning authority.

**Reason:** To appropriate protection and mitigation/compensation measures associated with badgers and to comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

23. 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 sloping escape ramps for badgers, which may be achieved by edge profiling 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 and to comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

24. Prior to the first occupation of the development hereby approved, a “lighting design strategy for biodiversity” shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- c) Confirm internal lighting proposals and measures to reduce spillage from internal lighting sources. Internal light spill should be designed out wherever possible.

All lighting and mitigations shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Regard should be had to the Institute of Lighting Professionals Guidance Note 8 ‘Bats and Artificial Lighting’ (September 2018).

Under no circumstances should any external lighting other than that which forms part of the approved scheme be installed without prior consent from the Local Planning Authority.

**Reason:** Many species active at night (e.g. bats and badgers) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and /or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation. To comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

25. The development hereby permitted shall not commence until an ecological design strategy (EDS) addressing retention and protection of existing habitats



during construction, habitat removal and reinstatement, provision for wildlife corridors and habitat connectivity, reptile rescue and translocation, and creation of new wildlife features (including green roofs, bird and bat boxes) 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 any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this and to comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

26. The development hereby permitted shall not commence until a landscape and ecological management plan (LEMP) covering the long term management of the Wanderdown Road Open Space Local Wildlife Site, including the long term management of retained scrub and woodland and the road bank, has been submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;

- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions, together with a plan of management compartments;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures. The LEMP shall also include details of the legal and funding mechanism(s) by which the longterm implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plans shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

**Reason:** Biological communities are constantly changing and require positive management to maintain their conservation value. The implementation of a LEMP will ensure the long term management of habitats, species and other biodiversity features and to comply with policy QD18 of the Brighton and Hove Local Plan and policy CP10 of the Brighton and Hove City Plan Part One.

27. Notwithstanding the approved details and any references to sedum roofs, no development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of chalk grassland roofs to the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and an ongoing maintenance and irrigation programme. The chalk grassland roofs shall then be constructed in accordance with the approved details and shall be maintained in accordance with the approved details thereafter.

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

### **Archaeology**

28. The development hereby permitted shall not commence until a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any

archaeological investigation 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 and Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

### **Drainage / Water Source Protection**

29. No development shall commence until full details of a Surface Water Drainage Strategy as detailed in the Sustainable Drainage and Flood Risk Assessment (December 2018), has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include:

- Full details of how the surface water arrangements will be maintained for the life of the development i.e. a Maintenance Plan.
- Full details of adequate treatment of surface water runoff prior to infiltration to prevent pollution of the underlying aquifer;
- Full details of all Microdrainage calculations.

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

#### **Informatives:**

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton and 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 reminded that, under the Wildlife and Countryside Act 1981, as amended (Section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 01 March and 31 August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity during this period and has shown that it is absolutely certain that nesting birds are not present.
3. In relation to Condition 6 a road safety audit in accordance with DMRB GG 119 should be undertaken to evidence the appropriateness of the internal access road scheme and related works on the existing adopted highway. Brighton & Hove City Council in its capacity as Local Highway Authority should be identified as the Overseeing Organisation and Project Sponsor for audit purposes. Any

works necessary within the public highway will be subject to an appropriate highway agreement or licence. For further details please contact [s278@brighton-hove.gov.uk](mailto:s278@brighton-hove.gov.uk)

4. In relation to Condition 9 the cycle parking facilities should consist of “Sheffield-style stands, which should be spaced in accordance with the guidance in the Department for Transport’s “Manual for Streets.

## 2. SITE LOCATION AND APPLICATION DESCRIPTION

- 2.1. The application relates to an area of land referred to as ‘Long Hill’, between Wanderdown Road to the West and The Vale to the East. To the north of the site is Ovingdean Road with the land beyond forming part of the South Downs National Park. To the west of the site is the Ovingdean conservation Area. In distanced views from the west, north and east the site appears as an undeveloped ridge and a break between the houses to either side of the hill.
- 2.2. Alongside the site to the east are two detached dwellings; ‘Monterey’ and ‘Badgers Walk’. Badgers Walk has an access to the rear of its garden through to the site; two stable buildings are sited in this area along with a manege set on raised land. The manege does not have planning permission but may have been in situ for more than four years.
- 2.3. The site is designated as a Site of Nature Conservation Interest (SNCI). There are live badger setts within the site. There are two Tree Preservation Orders on the site; one dates from 1990 and covers a number of individual trees on the site. A Woodland TPO was adopted in April 2015 following site clearances which were carried out at the end of 2014.
- 2.4. Permission is sought for the residential development of the site; a group of dwellings would be sited in the southern part of the site, with the remainder of the site retained as chalk grassland / woodland.
- 2.5. The application follows a pre-application submission where five dwellings were proposed. The application as originally submitted proposed four dwellings. Following discussions with the applicant, the scheme has been amended to omit the northern-most dwelling which has been replaced with proposed tree planting to screen the development now proposed which comprises three dwellings and an access road.

## 3. RELEVANT HISTORY

- 3.1. **BH2015/04273:** Outline application with some matters reserved for 9 detached houses and access with maintenance and protection of the existing chalk grassland meadow to the north. Appeal lodged against non-determination; appeal dismissed 4<sup>th</sup> January 2017. This appeal was dismissed as the Inspector considered that the landscape impact / visual impact of the proposed development would have been harmful and this harm warranted the refusal of planning permission.

3.2. **BH2012/02414:** Application for Approval of Details Reserved by Conditions 1 and 3 of application BH2011/03586. Approved 27/09/2012.

3.3. **BH2011/03587:** Change of Use of grazing land to domestic manège. (Retrospective). Refused 14/05/2012 for the following reason:

*The change of use from grazing land to a domestic manège, as a result of the loss of important habitat, has had an adverse impact upon the nature conservation features of the Wanderdown Road Open Space Site of Nature Conservation Importance contrary to policy NC4 of the Brighton and Hove Local Plan.*

Notwithstanding this refusal the manège remains in situ.

3.4. **BH2011/03586:** Erection of buildings to provide two loose boxes, a hay store and a tack room with enclosing fence and yard. (Retrospective). Approved 14/05/2012 subject to the following conditions:

1. *Notwithstanding the Chalk Grassland Management Plan received on the 22nd November 2011, an amended Management Plan shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the date of the permission, demonstrating how the grassland will be maintained at a height of no less than 5cm at any time to ensure overgrazing is avoided. The amended plan should not include the use of fertilizers or cultivation at any time. The maintenance of the Wanderdown Road Open Space Site of Nature Conservation Importance shall be carried out in strict accordance with the approved plan.*

**Reason:** *To ensure an adverse impact on the Site of Nature Conservation Importance is avoided in accordance with policy NC4 of the Brighton and Hove Local Plan.*

2. *No vehicular access to the development hereby approved shall be permitted through the Site of Nature Conservation Importance at any time. All vehicle access to and from the buildings shall be via the garden area of Badgers Walk.*

**Reason:** *To ensure an adverse impact on the Site of Nature Conservation Importance is avoided in accordance with policy NC4 of the Brighton and Hove Local Plan.*

3. *Details of no less than 5 bat boxes and a plan showing their proposed location shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the date of permission. The boxes shall be installed in strict accordance with the details submitted within 3 months of the approval of the details.*

**Reason:** *In the interests of nature conservation and to comply with policy QD17 of the Brighton and Hove Local Plan.*

3.5. **BH2009/01186:** Erection of buildings to provide 2 loose boxes, a hay store and a tack room, with enclosing fence and yard. Approved 01/12/2009.

- 3.6. **BH2005/02352/FP:** Mower shed (Retrospective). Refused 21/09/2005, appeal allowed 06/10/2006.
- 3.7. **BH2004/00097/OA:** Detached dwelling. Refused 06/02/2004, appeal dismissed 07/12/2004.

#### 4. REPRESENTATIONS

- 4.1. **Sixty-seven (67)** letters have been received objecting to the scheme of four dwellings originally proposed **for the following reasons:**

- The proposed development would cause additional overlooking of neighbouring properties.
- The proposed development will cause additional noise, disturbance, and pedestrian and vehicular comings and goings to/from the site.
- Use of the proposed vehicular access would cause an increased highway safety risk.
- If this scheme is granted, further applications will follow for more dwellings on the site.
- The site is an open space of nature conservation importance; SNCI, wildlife corridor.
- The site provides a green gap between housing and the development of the site would harm the landscape character of the area.
- The site supports wildlife including numerous bird species, butterflies and dragonflies, bats, badgers, pheasants, foxes and peacocks and the development of the site would be harmful to this wildlife.
- There are other sites which could be developed for housing which would be less harmful.
- The development would cause additional traffic harming the character of the area.
- The development would cause increased flood risk.
- The increased access into the site could create an increased security risk for adjoining properties.
- The site contains rare chalk grassland and protected trees.
- Local Doctors, Dentists and schools are full to capacity already.
- The proposed houses will not be affordable.
- The proposal represents urban sprawl.
- Ovingdean has a rural character and this development would have an urbanising impact.
- The bus services in the area are very poor.
- A housing scheme has already been dismissed at appeal at the site.
- The sewer and drainage system in the area are inadequate.
- The development would cause additional air and light pollution.
- The proposed construction works could damage trees and their roots.
- Any new trees planted will take many years to mature and provide screening.
- Development should be on brownfield sites first not greenfield sites like this.
- The new City Plan does not designate the site for housing.
- The proposed dwelling designs are out of character with the area.

4.2. Following the submission of an amended scheme of three dwellings, neighbouring residents were consulted and a further **fifty-three (53) letters** were received objecting to the revised scheme of three dwellings originally proposed for the following reasons:

- The amended scheme does not address the objections raised previously.
- Overdevelopment
- Impact upon neighbouring amenity; overshadowing, loss of privacy, light pollution
- Traffic / highways issues / additional traffic and pollution; in addition to the traffic associated with other approved schemes in the vicinity of the site.
- This section of Ovingdean Road is very busy with pedestrians and horses, and dog walkers crossing the road, on a 'blind bend'; the proposed access would be an accident waiting to happen.
- Adverse impact upon a Site of Nature Conservation Importance / wildlife corridor / the wildlife and biodiversity within the site including protected species, bats and badger setts.
- Adverse impact upon landscape character / setting of / views from the South Downs National Park
- Much of the site is covered by Tree Protection Orders; removal of trees should not be permitted.
- The development is about greed; the area doesn't need more luxury homes.
- Brownfield sites should always be considered as a first option rather than developing greenfield sites.
- The proposed development should be considered in conjunction with other developments approved in the area. Additional traffic and any loss of trees will add to traffic and air quality issues in the area.
- The proposed houses will be very expensive and unaffordable to most residents of Brighton and Hove. The proposed development will not alleviate housing pressures amongst those who already live in the city.
- Construction works associated with the development would generate traffic and noise.
- Destroying more green space will impact our health and the health of our children.
- The site is no longer listed in the city plan for development
- The site is exposed therefore any new tree planting may fail or may take a significant period to establish and in the meantime the visual impact of the proposed houses would not be mitigated.
- The site should be designated as an open access site for the benefit of the local community and sheep should be allowed to graze on the site to help it be restored to its natural beauty.
- Adverse impact on the Ovingdean Conservation Area
- Detrimental effect on property value
- Inappropriate height of development
- Too close to the boundary
- All the reasons the council and the Government Inspector rejected the planning application remain the same and I cannot see that any buildings would be allowed on this conspicuous hill.

- The local Doctors, Dentists and schools and already full.
- The proposed development would introduce a rural character.
- Impact on archaeology
- The approval of the proposed development could lead to further applications for more dwellings on the site.
- The potential negative impact on tourism as the area loses some of its appeal and the traffic issues become more acute.
- Increased flood risk
- The development will add to the problems of the Air Quality Management Area (AQMA) and does not mitigate from the additional harm which would be caused.
- The proposed houses are hideous and completely out of character with other housing designs in the area.
- The Badger surveys which have been carried out are not sufficient as they do not consider connectivity to other setts in the hillside adjacent to the site.

4.3. **Councillor Mary Mears** has written two letters in objection to the application, copies of these letters are attached.

## 5. **CONSULTATIONS** External Consultees

5.1. **Brighton and Hove Archaeological Society:** Comment.

The proposed development is close to the location of several important archaeological finds spots dating to the Bronze Age and the Anglo-Saxon period. There have also been a number of Anglo-Saxon burials found in this location. It is recommended that the County Archaeologist be consulted.

5.2. **County Archaeologist:** Comment.

The proposed development is partially situated within an Archaeological Notification Area defining evidence for late Neolithic/Early Bronze Age burials following the discovery of one burial along the northern edge of the site during roadworks in the 1930s and a further burial during the evaluation excavation assessment of this site in relation to application BH2015/04273. 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 should be secured by planning condition.

5.3. **Natural England:** No comment.

5.4. **South Downs National Park Authority:** Comment.

### **Landscape and visual impact**

The site is located to the south of the National Park boundary which runs along the Ovingdean Road. The topography of the land rises to the north to a peak at Mount Pleasant which is roughly 500m north of the site. The site is highly visible



in views from a number of viewpoints within the SDNP. These include close range views from the bridleway immediately to the north of the access point, and also in longer distance views of the rest of the site from the higher parts of the bridleway further to the north and from the trig point at Mount Pleasant which is on permissive access land, and also from land around The Bostle to the north east.

The SDNPA have reviewed the comments provided by the ESCC Landscape Officer (dated 08.01.19) and would generally agree with the conclusions reached in terms of the impact on views from the National Park and its setting.

If the Council were minded to recommend approval, the SDNPA would request that the recommendations of the ESCC Landscape Officer and ESCC Ecology Officer are secured by condition or s106 as appropriate. Conditions to secure the following details are recommended: final level details; full soft and hard landscaping details including a comprehensive and detailed landscaping scheme and an appropriate long term management/biodiversity enhancement plan for the site including the chalk grassland, site boundaries, road bank and green roofs. Material samples should be secured to ensure they are of a high quality. The SDNPA would welcome the opportunity to comment on any of these details at the appropriate stage.

The SDNPA would recommend that consideration is given to the removal of permitted development rights from the new residential units in order to ensure the design/landscaping objectives are not undermined and to prevent the proliferation of further built form, roof alterations, outbuildings, enclosures and hardstanding on the site. The removal of permitted development rights for fencing and other enclosures across whole the site is also recommended, especially in the northern section of the site which should remain as open chalk grassland as proposed.

The submitted indicative sketch of the access on to Ovingdean Road (drawing PL017, published 9th Jan) shows a reasonably low key entrance which maintains the existing land levels and avoids hard engineering features or excavation and re-profiling of the land. The Council should ensure their Highways Team are fully satisfied that this style of entrance will be acceptable from a highways safety perspective in order to ensure that the entrance design is not significantly amended further down the line as this could have an adverse impact on the local character at the edge of the National Park and therefore fail to be acceptable. The SDNPA would recommend that the detailed design of the access point (including cross and longitudinal sections, full soft and hard landscaping details, material samples etc) are secured by condition and the SDNPA would welcome the opportunity to comment on these details.

### **Lighting**

The South Downs National Park is a designated International Dark Sky Reserve and dark skies and tranquillity are a special quality of the National Park which need to be protected. Paragraph 180(c) of the NPPF 2018 outlines that development should limit the impact of light pollution on intrinsically dark landscapes and nature conservation.

Full details on external lighting have not been provided at this stage. The SDNPA would request that full details for any external lighting across the site are secured and controlled by condition. The SDNPA would welcome the opportunity to comment on these details as and when they are submitted. The SDNPA would prefer to see no street/bollard lighting and any domestic light fittings should be kept to a minimum and should ideally be no more than 500 lumens, be angled downwards, have a colour temperature of less than 3000K and use proximity sensors or timers.

Further information/advice on sensitive lighting can be found in the SDNPA's Dark Skies Technical Advice Note TLL 10 (2018).

Light trespass from glazed openings and rooflights can potentially have a significant impact on dark skies and also have a visual impact in terms of visibility of light sources in the landscape. The SDNPA would recommend consideration is given to the removal of permitted development rights for further glazed openings and rooflights in order to ensure the design objectives are not undermined and that light trespass from the development can be appropriately controlled by the Council in the future.

#### **Access to National Park**

The access point at Ovingdean Road would involve alterations to the existing footway/pavement which currently forms a point where local residents cross the road to access the National Park. The Council need to ensure that any access alterations and additional traffic associated with the development will not compromise the safety of public rights of way users, or affect the legibility of layout for members of the public trying to cross the road and access the National Park. Opportunities to enhance the experience of public rights of way users should be explored and secured if possible.

#### **5.5. Sussex Wildlife Trust: Object.**

Thank you for re-consulting the Sussex Wildlife Trust on the above amended application. We recognise that the applicants have reduced the number of dwellings by one and have now submitted further ecological information. However we still object to this proposal.

The application site is a Local Wildlife Site (LWS) and part of the South Downs Way Ahead Nature Improvement Area and as such there should be a presumption against development as per paragraph 170a of the National Planning Policy Framework (NPPF) and policy CP10 of the City Plan Part 1 (CPP1). The CPP1 is clear that BHCC wants to ensure that the city's natural environment is protected and enhanced, with the vision stating that 'The downland countryside will be conserved and its links to urban green spaces strengthened via a green network across the city where biodiversity is enhanced and equality of access to natural open space is achieved'. Similarly Policy CP10 requires BHCC to link and repair habitats and nature conservation sites within the South Downs Way Ahead NIA, whilst conserving, restoring, recreating and managing priority habitats.

This site functions as a green corridor which brings the downland countryside into the City as per the aims of the Living Coast Biosphere, of which Brighton and Hove City Council (BHCC) is a lead partner. The Sussex Wildlife Trust cannot see how developing this LWS complies with these commitments to the natural environment.

We are very concerned that BHCC are allowing the countryside to be slowly degraded and nibbled away at. LWS are an integral component of the City's Ecological Network and we have no confidence that BHCC understand the true impact the continued loss of LWSs is having on this network and the functions that network provides for the City.

We note that the County Ecologist has recommended a condition on the lighting scheme as this has still not been agreed. We support the condition, however the Sussex Wildlife Trust is concerned that there has been no reference in the application to the internal lighting scheme which, given the large areas of glazing in the designs, may spill out from the dwellings onto the adjacent habitat. We note from Table 7 and Map 4 of the Amended Ecological Report that some of the areas with the most records of foraging and commuting bats are adjacent to the area of the site designated for the dwellings and access road. Whilst we still strongly object to the proposal, if the Council is minded to approve the application, this needs to be rectified.

BHCC has a duty under the NERC Act 2006 to have regard for biodiversity, but this does not seem to be influencing the decisions being made in relation to the buffering area between existing housing and the wider countryside. We urge the Council to demonstrate their commitment to the environment by counteracting the view of some, that a degraded LWS is suitable for development. Instead working to ensure these sites deliver the ecosystem services the City so desperately needs for a sustainable future.

### Internal Consultees

#### 5.6. **Planning Policy Team:** Comment

The application site lies outside the built up area boundary and was included in the 2014 and 2015 Urban Fringe Assessments (UFA). The site has been subject to a previous outline planning application (BH2015/04273) for 9 dwellings which was dismissed on appeal in January 2017 due to the harm to the landscape character and setting of the South Downs National Park and negative visual impact. The current application proposes a reduced scheme of 4 dwellings, with amendments to the proposed location and design of development aimed at reducing the potential visual impact.

The UFA studies identified some potential to deliver a small amount of development at the northern tip of the site, subject to measures to mitigate landscape and ecological impacts. The site has not been included as a potential site allocation in the draft CPP2 because the development potential falls below

10 dwellings (which was the site threshold used for proposed site allocations in CPP2), however the UFA studies should be treated as a material consideration.

The current application is proposing development within the central part of the site which lies outside the area identified in the UFA as a 'Potential Development Area' and is more visible from within the SDNP to the north. However, following the approach taken by the inspectors at the previous outline planning appeal for this site, and the appeal involving another 'urban fringe' site at Falmer Avenue, Saltdean (BH2014/03394), it is necessary to consider the current application on its planning merits to determine whether it would deliver sustainable development when assessed against development plan policies (in particular policies SA4 and SA5) and the NPPF.

In addition, following the South of Ovingdean Road appeal inspector's conclusion that the Council cannot demonstrate a five year housing supply, it is necessary to give increased planning weight to the potential for housing delivery in line with the presumption in favour of sustainable development set out in the NPPF. Effectively this means that the application should be permitted unless it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against development plan policies and the NPPF.

Determination of the application will require specialist input from the County Landscape Architect regarding the degree of potential development impact and harm to the landscape setting of the city and the SDNP, and extent to which any adverse impacts of development can be minimised and adequately mitigated. The views of the County Ecologist and Council Heritage officers will also be important.

5.7. **Arboriculturalist:** Comment based upon the original proposal of four houses:

The proposal is for four dwellings and this is on a smaller footprint than the previous application for nine houses that was refused and later lost at appeal. There are two TPO's at the site and these protect a large number of trees. The proposal recommends the removal of eleven trees, three groups and parts of some groups and some of these are protected by the woodland and area tree preservation orders. However, the majority of these are c grade trees and the proposal has attempted to limit the removal of these and has retained the important boundary trees. In view of this the arboricultural team do not object to this proposal subject to conditions to secure:

- A full landscaping scheme including replacement tree planting;
- A Tree Protection Plan and an Arboricultural Method Statement;
- Supervision of tree protection measures;
- Details of any required tree pruning.

Updated comment based upon the amended proposal of three houses:

Again no objection is raised subject to the above conditions.

**5.8. County Ecologist:** Comment 11/07/2018 based upon the original proposal of four houses:

The Ecological Appraisal Report submitted sets out that a number of updated surveys are required (for bats, reptiles, vascular plants and invertebrates). These surveys must be carried out before full comments can be provided.

Given the proximity of the proposed development to a main badger sett, if permission is granted, the sett will need to be closed under licence, and an artificial sett will need to be provided. As the artificial sett will need to be constructed prior and proof of its use demonstrated before the main sett is closed, this may take some time. The impacts of the construction of an artificial sett should be included in the assessment of impacts on habitats and other protected species

Further comments 26/11/2018 following the submission of an updated Ecological Appraisal Report:

**Potential impacts on biodiversity**

The site lies within Wanderdown Road Open Space Local Wildlife Site (LWS or Site of Nature Conservation Importance). The LWS is designated for its relict chalk grassland, rough grassland and scattered scrub and associated species. The site includes the existing access strip which, despite disturbance, retains patches of chalk grassland, and chalk scrub and deciduous woodland to the south. Following a review of LWS in 2013, a revised boundary and citation has been proposed through the City Plan Part Two which includes the road verge.

The proposed development would lead to the direct loss of approximately a third of the LWS, although it is recognised that this area may be slightly reduced by the proposals to remove one house and to amend the access route. The loss includes buildings and hard standing (stables and manege). Approximately 0.37ha of semi-improved grassland at the north western end of the site will be retained and protected. In my opinion, the harm to the LWS remains significant, even with the proposed mitigation and compensation.

However, in light of the Inspector's comments in relation to a previous scheme with a similar overall footprint, given the proposed mitigation and proposals for future management, the loss is acceptable.

The mitigation and compensation for the chalk grassland outlined in the EclA, including protection and sensitive management of the retained grassland, removal of invasive species from the road bank, natural recolonisation of the road bank and the provision of chalk grassland green roofs, is acceptable and should be designed and implemented through an Ecological Design Strategy (EDS) and Landscape and Environmental Management Plan (LEMP). The funding for the latter should be secured through a S106 agreement. The LEMP should include long term management of the remaining scrub and woodland within the LWS. In addition to the proposed mitigation and compensation within the EclA, it is recommended that seed is collected from the Sussex Scarce Cat-

mint that is found in the southern part of the site, and that consideration is given to translocating the species to a suitable location within the site. Advice on seed collection and propagation should be sought from the UK Native Seed Hub based at the Millennium Seedbank at Wakehurst.

The revised site layout shows indicative screening planting between the access road and the northernmost house. Whilst it is recognised that screening may be required for landscape purposes, tree planting within the retained grassland should be avoided, and species should be native, appropriate to the local area and of local provenance. The revised route of the proposed access track is preferred to the original proposal. To minimise the impact on the retained grassland, the footprint should be kept as small as possible.

### **Badgers**

Badgers are protected under the Protection of Badgers Act 1992. A main badger sett is present on site. The proposed development will require the closure of the sett under licence, for which an alternative artificial sett will be required. As closure cannot take place before the artificial sett has been constructed and there is evidence that badgers are using it, this process should be clearly programmed into the timetable for works. There will be a net loss of foraging and commuting habitat. Any boundaries within the site should be made permeable to badgers. Best practice working methods should be employed during construction.

### **Bats**

All species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2010, making them European Protected Species. The site offers moderate potential for foraging and commuting bats. Artificial light can negatively impact on bats through e.g. causing disturbance at the roost, affecting feeding behaviour, avoidance of lit areas and increasing the chances of bats being preyed upon. All lighting design should therefore take account of national best practice guidance. Bat boxes should be provided on retained mature trees within the site, the maintenance of which should be included within the LEMP.

### **Breeding Birds**

The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any demolition of buildings or removal of scrub/trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation. Bird boxes should be provided as recommended in the EclA.

### **Reptiles**

Slow worms, grass snakes, common lizards and adders are protected against intentional killing or injuring under Schedule 5 of the Wildlife and Countryside Act 1981, as amended. The site supports low populations of slow worms and common lizards. The proposal is to retain the population on site within the retained grassland, with log piles to be created within the retained woodland. In addition to log piles, a hibernaculum such as that recommended in the Great Crested Newt Mitigation Guidelines 2001. A method statement for the rescue and translocation of reptiles within the site, which should accord with best practice guidance, should be included in the EDS. The EclA proposes trapping for a minimum of 20 days, continuing until there have been five clear days without capture. The recommended minimum capture effort for low populations of slow worms and common lizards is 60 suitable days.

### **Other species**

The site should be managed in the long term to enhance it for invertebrates, including those species listed within the LWS citation.

The site has the potential to support hedgehogs. The hedgehog is listed as a Species of Principal Importance under Section 41 of the NERC Act. Care should be taken during site clearance to avoid harm to hedgehogs and any boundaries within the site should be made permeable for wildlife.

The site is unlikely to support any other 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.

### **Conditions are recommended to secure:**

- Badger protection measures
- External lighting strategy
- Ecology Design Strategy
- Landscape and Ecological Management Plan

Updated comment based upon the amended proposal of three houses:

The updated ecological report (Ecological Impact Assessment, Ecosa Ltd, 13/12/18) notes that with the reduction to three houses, there will be a small reduction in the amount of semi-improved chalk grassland and broadleaved woodland to be lost. The updated report has also taken account of my comments with respect of the minimum effort required for translocation of reptiles to the area of retained grassland. I reiterate that in relation to reptiles, in addition to the proposed log piles, a hibernaculum such as that recommended in the Great Crested Newt Mitigation Guidelines should also be provided.

The majority of the comments provided on 26/11/18 in relation to the original application for four houses remain valid, as do the recommended conditions. In addition to the management of the retained grassland on site for biodiversity, the Landscape and Ecological Management Plan should include the long term management of retained scrub and woodland, and the road bank. In light of

reports from neighbours of active badger setts close to the western boundary of the site, and given the highly mobile nature of badgers, it is also recommended that a pre-construction badger survey is carried out to assess use of the site by badgers at that time and to inform appropriate mitigation, compensation and enhancement.

The EclA recommends the provision of chalk grassland roofs in compensation for the loss of chalk grassland within the Local Wildlife Site. This is an essential component of the scheme. However, the Design and Access Statement refers to sedum roofs. Sedum roofs would not be acceptable.

- 5.9. **County Landscape Architect:** Comment based upon the original proposal of four houses:

**Potential impacts and mitigation**

The wooded character of land between the Vale and the edge of the Wanderdown development is characteristic of this part of the valley. The area of open meadow within the development site and on the crest of the ridge is also a feature which contributes to the character of the area. The loss of this elevated open area would have an adverse impact on local landscape character. The open meadow of the application site is a fragile gap between the existing housing developments which helps to give them separate identity and avoid the perception of coalescence. The sensitivity of this open character was highlighted by the previous refusal of the application BH/2015/04273 and the subsequent unsuccessful appeal (APP/Q1445/W/16/3147419).

The key conclusions of the Inspector that are relevant to this application were as follows:

*‘The LVIA identifies moderate or substantial negative effects as a result of the development as seen from Mount Pleasant. These effects would be greater when trees are not in leaf. At least the first four or five houses would be visible from Mount Pleasant. Even with the housing cut into the ridgeline the houses would be a dominant feature from this position and also at distance from views within The Bostle area to the north east.*

*I conclude that there would be a significant adverse effect on the landscape character and the proposal would be harmful to the setting of the SDNP. There would also be a negative effect in terms of the immediate visual impact relating to the access road.’*

The proposed detailed design for the individual units in this proposal would address some of the concerns raised by the previous application. The houses would be cut into the slope to form terraces and the flat green roofs would be less intrusive than pitched tiled roofs. However the northern house would be visible from the key viewpoint at Mount Pleasant and would present a built façade which would intrude into the open character of the gap between the settlements. The most significant views into the application site from the SDNP are from the bridleway and open access land between Mount Pleasant and



Ovingdean Road. The LVIA does acknowledge that the proposed development would have a negative effect on these views with a major to moderate degree of significance. It is acknowledged that the proposed design and selection of materials to be used for the development would help to mitigate the potential impacts on local views. Whilst the development would not break the wooded skyline from this viewpoint the most northern house façade would be prominent and the access road would cut across the open green field in front of this house. The roofs and chimneys of the other houses would also be seen beyond the first house.

Tree and shrub planting at the north end of the development would help to mitigate the visual impact in views from the wider downland to the north. However, planting would conflict with the ecological sensitivities on the site. Any proposed tree planting within the meadow area would conflict with the ecological priority to conserve chalk grassland.

If the northern unit was omitted a belt of native tree and understorey planting could be used to mitigate housing located deeper into the site. This planting would be located on the existing ménage and therefore would not conflict with the chalk grassland habitat.

The proposed access road would impact on open downland character of the northern part of the site as it would cut across this area, which is also sensitive as chalk grassland habitat. An access road which hugs the eastern boundary of the site aligned with the existing site access track would be less intrusive and would have less of an impact on the open character which was considered to be sensitive by the Inspector. The access road would also require the removal of some small trees which provide an existing screen to the southern part of the site.

The access onto Ovingdean Road would also have an adverse impact on local character as with the previous application.

### **Conclusion**

The application is not supported due to the adverse impact on local landscape character and views.

Updated comment based upon the amended proposal of three houses:

The detailed design for the individual units in this proposal would address some of the concerns raised by the previous application. The houses would be cut into the slope to form terraces and the flat green roofs would be less intrusive than pitched tiled roofs. The most significant views into the application site from the SDNP are from the bridleway and open access land between Mount Pleasant and Ovingdean Road. The LVIA does acknowledge that the proposed development would have a negative effect on these views with a major to moderate degree of significance. It is acknowledged that the proposed design and selection of materials to be used for the development would help to mitigate

the potential impacts on local views. The roofs and chimneys of the proposed houses would be seen in views from the north.

Tree and shrub planting at the north end of the development would help to mitigate the visual impact in views from the wider downland to the north. However tree planting within the meadow area would conflict with the ecological priority to conserve chalk grassland.

The revised layout omits the most northerly unit and reduces the number of houses to three. This would allow for a belt of native tree and understory planting which would mitigate the impact of the development. This planting would be located on the existing ménage and therefore should not conflict with the chalk grassland habitat. The planting would need to be of locally characteristic downland species with some holly and yew to provide evergreen cover.

The omission of the northern house would allow the access road to swing to the west further into the site. This would help to reduce the impact of the road in views from the north. This would also allow for the retention of the group if existing trees on the north side of this road.

The access onto Ovingdean Road would have potential to have an adverse impact on local character and the streetscape. A sketch perspective, drawing PL017, has been provided to indicate that there would be little change to the entrance from the existing situation. The detailed design for the access road would need to ensure that it would have a minimum impact on the character of the area.

If the Local Planning Authority is minded to approve the development it would need to be supported by a comprehensive and detailed planting scheme to ensure that it can be fully integrated into the local landscape.

It is recommended that the proposed development can be supported subject to the implementation of a detailed landscape mitigation strategy as outlined above.

**5.10. Transport:** Comment based upon the original proposal of four houses:

No objections subject to full details of the access road and an updated Road Safety Audit (RSA) being secured by condition, and the following requirements to be secured by s106 Agreement / condition:

A contribution of £6,000 is requested that will be allocated towards:

- Bus stop improvements (to include accessible kerbs and/or shelters and/or real time passenger information) at the 'Wanderdown Road' north and southbound bus stops on Ovingdean Road and/or
- Crossing improvements (dropped kerbs and tactile paving) to the northbound Wanderdown Road bus stop on Ovingdean Road.

- A scheme of highway/landscaping works including full details of all proposed vegetation clearance and regrading of the bank either side of the access from Ovingdean Road that is required to achieve visibility splays;
- Implementation of cycle parking provision;
- Construction Environmental Management Plan (CEMP).

Updated comment based upon the amended proposal of three houses:

Again no objection is raised subject to the above conditions and s106 requirements.

5.11. **Sustainable Drainage:** Comment

Prior to any construction the applicant should supply the following information:

- The SuDS Maintenance Plan submitted with this application should be expanded upon as it does not demonstrate that maintenance can be carried out for the lifetime of the development. It does not, for example, depict exactly what maintenance or regularity for the SuDS specific to the proposed site.
- Since the soakaways appear to be situated within Source Protection Zone 3, the applicant must ensure measures are in place to prevent pollution of the underlying aquifer. Adequate treatment to surface water runoff prior to infiltration is required.
- The applicant should provide their MicroDrainage calculations that accompany their runoff values for checking.

5.12. **Heritage:** No comment:

In view of the Inspector's conclusion re the appeal scheme and that it would not cause harm to the setting of the Ovingdean Conservation Area; no comment.

**6. MATERIAL CONSIDERATIONS**

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

6.2. The development plan is:

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

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

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### **Brighton and Hove City Plan Part One (2016) (BHCPP1)**

SS1 Presumption in Favour of Sustainable Development

SA4 Urban Fringe

SA5 The South Downs

CP1 Housing Delivery

CP8 Sustainable Buildings

CP9 Sustainable Transport

CP10 Biodiversity

CP11 Flood Risk

CP12 Urban Design

CP14 Housing Density

CP15 Heritage

CP16 Open Space

CP18 Healthy City

CP19 Housing Mix

CP20 Affordable Housing

#### **City Plan Background Studies**

Urban Fringe Assessment 2015

Urban Fringe Assessment 2014

#### **Brighton and Hove Local Plan (2005) (BHLP) Retained Policies**

TR7 Safe development

TR14 Cycle access and parking

TR19 Parking standards

SU5 Surface water and foul sewage disposal infrastructure

QD15 Landscape design

QD16 Trees and hedgerows

QD18 Species Protection

QD27 Protection of Amenity

HO5 Provision of private amenity space in housing schemes

NC4 Sites of Nature Conservation Importance (SNCl) and Regionally Important Geological Sites (RIGS)

HE6 Development within or affecting the setting of conservation areas

#### **Supplementary Planning Documents**

SPD06 Trees and Development Sites

SPD11 Nature Conservation and Development

#### **Supplementary Planning Guidance**

SPGBH4 Parking Standards

## 8. CONSIDERATIONS and ASSESSMENT

8.1. The main considerations in the determination of this application relate to the principle of development, landscape impacts, ecology, transport and highway safety, neighbouring amenity, standard of accommodation, flooding and sustainability.

### 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.

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 in due course. In the interim, when considering the planning balance in the determination of planning applications, increased weight should be given to housing delivery in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).

8.4. The Council's housing delivery identifies that an estimated 1180 new dwellings could be delivered on urban fringe sites across the city. Policy SA4 of the BHCPP1 states that:

*“Where appropriate, the council will promote and support the careful use and management of land within the urban fringe to achieve the following objectives:*

1. *The protection and enhancement of the wider landscape role of land within the urban fringe, the setting of the South Downs National Park and the protection of strategic views into and out of the city.*
2. *Securing better management of the urban fringe, environmental improvements and safe public access to the countryside through sustainable means.*
3. *The promotion of urban fringe land as part of the city's green network and, where appropriate, encouraging opportunities for multi-functional uses such as, appropriate recreation and cultural experience, new allotments and local food production and biodiversity conservation and enhancements (see CP10 Biodiversity).*

4. *The protection of sensitive groundwater source protection zones from pollution and encouraging land management practices that reduce rapid surface water runoff and soil erosion.*
5. *The creation of 'gateway' facilities and interpretative facilities in connection with the South Downs National Park to support sustainable tourism.*

*Development within the urban fringe will not be permitted except where:*

- a) *a site has been allocated for development in a development plan document; or*
  - b) *a countryside location can be justified; and where it can be clearly demonstrated that:*
  - c) *the proposal has had regard to the downland landscape setting of the city;*
  - d) *any adverse impacts of development are minimised and appropriately mitigated and/or compensated for; and*
  - e) *where appropriate, the proposal helps to achieve the policy objectives set out above.*
- 8.5. The application site is a challenging one as it is designated as a Site of Nature Conservation Importance (SNCI) / Local Wildlife Site (LWS), and furthermore the site forms the ridge of a hill which is highly prominent in immediate and more distant strategic views, including views from the South Downs National Park to the north of the site, Ovingdean Conservation Area to the west of the site, and Falmer Road to the east of the site.
  - 8.6. In this context, the acceptability or otherwise of any residential development on the site is dependant primarily on an assessment of the impact of the development on the biodiversity and ecology of the SNCI, and an assessment of the landscape / visual impact of the proposed development. Developments which would cause harm in either respect are unlikely to be supported.
  - 8.7. The Council commissioned two Urban Fringe Assessment (UFA) studies, one in 2014 and one in 2015. These are high level studies which have the objective of identifying the development potential of a number of urban fringe sites. The studies are not definitive and do not constitute site allocations. In the case of the application site, referred to as Site 41, the 2014 study concluded:

*"The site is considered suitable for a small amount of low density residential development at the northern tip of the site. The site occupies the crest of a ridge which runs down from Mount Pleasant, separating the built area of northern Ovingdean into two. The northern end is largely open greenspace and the remainder is wooded. Both areas are prominent in SDNP views descending from Mount Pleasant, in which the village appears as houses surrounding a wooded ridge and development on the hill top would be uncharacteristic, detracting from the historic valley settlement form. However, a few new houses within the pony paddocks at the northern end of the site would retain the woodland on the hill top and have the least adverse impact on landscape character. Any impacts on archaeology and heritage would need to be*

*satisfactorily addressed. 95% of the site is recognised as a Site of Nature Conservation Importance. Although the value of the site has been challenged by the landowner, the 2013 Review of SNCIs concluded that the designation should remain pending further independent survey work to verify objections from the landowner.”*

- 8.8. The 2015 study provides a more detailed assessment, particularly of potential landscape and ecological impacts. This study recommends that the potential developable area to the northern end of the site be reduced and the potential yield of 5 dwellings also be reduced:

*“In conclusion, it is considered that development across the potential development area identified in the 2014 UFA would be likely to result in significant adverse landscape and ecological effects. There is, however, some potential to deliver development within Study Area L15/E12 without significant impacts on landscape and ecology, on the assumption that:*

- *The yield and density of development are reduced, and restricted to the lower, northern fringe of the Study Area, with a slight reduction in the potential development area indicated on the below figure.”*
- *Planting is located on the northern boundary, to filter/reduce views from the SDNP.*
- *Incorporation of robust mitigation measures to address any impacts on protected species.*
- *Long-term enhancement of adjacent habitats within the SNCI is provided, in particular retention and management of calcareous grassland (including avoidance of screening planting in these areas).”*

- 8.9. The study concluded that the principle of some residential development on the site may be acceptable, subject to detailed assessments of impacts and appropriate mitigation, provided that development is restricted to the northern tip of the site.

- 8.10. Following this study the draft City Plan Part 2 has been published, the site has not been included as a potential site allocation in the draft CPP2 because the development potential falls below 10 dwellings (which was the site threshold used for proposed site allocations in CPP2), in this context the UFA studies should still be treated as a material consideration.

- 8.11. In assessing the potential of the site to accommodate residential development it is of key importance to consider the findings of the Inspector in determining Appeal ref. BH2015/04273. This was an outline scheme of nine dwellings, the appeal was dismissed and the Inspector reached the following conclusions:

- The Council could demonstrate a 5 year housing supply (N.B. This is no longer the case.)
- A contribution towards affordable housing was required (N.B. the current scheme is below the threshold above which such contributions are required).
- The proposed vehicular access would not result in an increased highway safety risk.

- The ecological impacts of the proposed development could be appropriately mitigated.
- The development would not harm the setting of the Ovingdean Conservation Area.
- A contribution towards sustainable transport infrastructure was required.
- The proposed development would cause harm to the landscape character of the surrounding area and setting of the South Downs National Park, and the proposed access to the site would result in a significant change in the street scene and it would have a more suburban appearance in contrast to the rural quality of this particular part of Ovingdean Road. This harm warranted the refusal of planning permission.

8.12. Having regard to this appeal decision, whilst the Inspector did not rule out the principle of residential development on the site, for a proposed scheme to be considered acceptable it will need to overcome the concerns sets out by the Inspector in regard to landscape / visual impact. These matters are considered below.

**8.13. Landscape / Visual Impact:**

The previous Outline application (dismissed at appeal) proposed nine houses; an indicative layout showed the dwellings arranged along the ridge of the site. At pre-application stage prior to the current application, five large dwellings were proposed. The application as originally submitted proposed four houses. The County Landscape Architect considered that this scheme did not overcome the concerns raised by the Appeal Inspector and that the scheme would still have a harmful impact upon the character of the area.

8.14. Following negotiations with the Applicant the scheme was amended as follows:

- The northernmost dwelling has been omitted; the scheme has been reduced to three dwellings.
- Additional tree planting is now proposed to the north of the northernmost house now proposed to screen the appearance of the proposed dwellings.
- The proposed access road runs further down the western side of the site before sweeping over to the eastern side of the proposed houses.

8.15. These amendments have reduced the visual impact of the scheme; the houses would be set further back into the site than previously proposed. The existing manege (which causes visual harm) and stables would be demolished and tree planting is proposed in the location of the manege. The access road would be less prominent running further down the western boundary of the site before cutting across the site. The proposed dwellings, set back into the site with green roofs would have a significantly reduced impact in comparison to the nine houses previously proposed.

8.16. The dwelling designs proposed are of a contemporary nature with green flat roof forms and a staggered arrangement between the ground and first floors of the dwellings which are partially set into the slope of the site. Terraced garden areas are proposed. These dwelling designs would contrast with the traditional dwelling designs and forms in the surrounding area, they are however



considered to be appropriate for this site and the Council's design policies do in general support contemporary / innovative design.

- 8.17. The Appeal Inspector raised concern that the proposed vehicular access would alter the rural character of this section of Ovingdean Road. These concerns are noted; it is however considered that an appropriate appearance in terms of landscaping and any boundary treatment / gates can be secured through the application of appropriate planning conditions.
- 8.18. Overall, subject to appropriate details and landscaping being secured by planning conditions, it is considered that the proposed development would result in an acceptable visual impact and the concerns raised by the Appeal Inspector have been overcome. The County Landscape Architect does not object to the amended scheme.

### 8.19. Ecology

The site is designated as a Site of Nature Conservation Importance (SNCI) / Local Wildlife Site (LWS), there is a 1990 Tree Preservation Order (TPO) protecting a number of trees on the site and there is a Woodland TPO (2015) covering a large area of the site. This Woodland TPO was adopted following a large scale site clearance which was carried out at the end of 2014.

- 8.20. At the time of the previous appeal, the Appeal Inspector concluded that the harm which would have been caused by the nine dwelling scheme could have been appropriately mitigated through the application of planning conditions.
- 8.21. The current application as originally submitted lacked a number of essential ecological surveys. During the course of the application an updated Ecological Report was submitted with the results from the necessary surveys included. The County Ecologist has commented on the amended scheme and considers that, in light of the Appeal Inspector's comments; the harm which the scheme would cause could be appropriately mitigated provided that conditions are applied to secure:
- Badger protection measures
  - Lighting strategy
  - Ecology Design Strategy
  - Landscape and Ecological Management Plan

Subject to these conditions it is considered that the proposed development would result in an acceptable ecological impact.

### 8.22. Trees:

The trees on the site are of particular concern as many of the trees are covered by protection orders. The comments of the Council's Arboriculturalist set out that the development would have an acceptable impact subject to a number of other requirements which could be secured by planning condition:

- A full landscaping scheme including replacement tree planting;
- A Tree Protection Plan and an Arboricultural Method Statement;

- Supervision of tree protection measures;
- Details of any required tree pruning.

Subject to these conditions it is considered that the proposed development would result in an acceptable impact upon trees, appropriate new planting would be secured, and the protection afforded by the existing TPOs on the site would remain.

### **8.23. Transport:**

As at the time of the previous application / appeal, many of the representations received raised concerns regarding the proposed vehicular access as it is sited at the top of a hill on a bend in the road with access to a layby opposite. There is vehicular and pedestrian activity on the road and riding school in close proximity.

8.24. At the time of the appeal the proposed access was considered to have been demonstrated as acceptable and that a highway safety risk would not result. In response to the current application as originally submitted the Transport Officer raised a number of queries and sought further details of the pedestrian access way along the side of the access road. Further details have been provided and the Transport Officer considers that the scheme is acceptable subject to securing a contribution towards sustainable transport Infrastructure in the vicinity of the site, and conditions to secure:

- A scheme of highway/landscaping works including full details of all proposed vegetation clearance and regrading of the bank either side of the access from Ovingdean Road that is required to achieve visibility splays;
- Implementation of cycle parking provision;
- Construction Environmental Management Plan (CEMP).

8.25. The Transport Officer has indicated that street lighting may be sought along the access road; this would however conflict with the South Downs National Park Authority's objectives regarding dark skies and could impact upon wildlife. It is therefore recommended that any proposals for external lighting, including any street lighting, be secured by condition and the County Ecologist be consulted at this stage to ensure that harm would not result.

### **8.26. The proposed dwellings**

The proposed dwellings comprise two four-bedroom houses and one three-bedroom house. All of the dwellings would provide a good standard of internal accommodation and outdoor space. Planning Policy requires that a mix of housing types and sizes be delivered across the city; however as a small scheme of only three houses it is not necessary for smaller units to be delivered. Many smaller units are delivered across the city, for example in the flatted developments commonly proposed in the city centre. The proposed dwellings are considered to be acceptable. It is recommended that Optional Access Standards be secured by condition.

### **8.27. Neighbouring amenity:**

The Appeal proposal of nine dwellings was considered to have an acceptable impact upon neighbouring amenity. The current amended scheme of three dwellings would have a reduced impact in comparison to the Appeal scheme. The potential impacts of the proposed development are as follows:

- 8.28. The proposed vehicular access would cause some noise and disturbance however use of such an access would be intermittent and the rear gardens of the properties on Wanderdown Road would provide a division between the access and the dwellings on Wanderdown Road. The trees along the boundary would also to some extent mitigate noise impact.
- 8.29. Activity associated with the occupation of the proposed dwellings and gardens would create some noise, this level of noise would not be beyond a level expected in a residential area.
- 8.30. Overlooking of neighbouring dwellings is unlikely to cause harm as on the western side of the dwellings they would appear as single storey in nature and there is substantial screening along the western boundary of the site. To the eastern side of the site there is significant screening in place and the land slopes down steeply with neighbouring dwellings on The Vale set further down the slope.
- 8.31. Some additional light pollution would be caused by the proposed development as light would emit from the proposed dwellings this would not however be of a magnitude which would cause significant harm. It is recommended that details of appropriate external lighting be secured by condition.
- 8.32. Overall, it is considered that subject to appropriate details and conditions, the proposed development would have an acceptable level of impact upon neighbouring amenity.
- 8.33. Flood Risk / Ground Water Source Protection:**  
Neighbouring occupiers have objected to the application on the ground that the application site is prone to surface water flooding and landslips and flood run offs have impacted upon neighbouring properties in the past. The Council's Flood Risk Management Officer has considered the proposed development and has advised that such concerns can be addressed through an appropriate drainage scheme which can be secured by planning condition. This scheme should include full details of drainage and soakaways to prevent pollution of controlled waters.
- 8.34. Sustainability:**  
It is recommended that optional energy and water usage standards be secured by planning condition.
- 8.35. Archaeology:**  
Trial trenches were dug at the time of the Appeal scheme and the results were passed to the County Archaeologist. The County Archaeologist has no objection to the proposed development subject to a programme of archaeological works being secured by planning condition.

**8.36. Other matters:**

Objections received from neighbouring occupiers raise concerns regarding the capacity of local infrastructure in the form of road, sewers, school, doctors and dentists. Neighbouring occupiers feel that any additional dwellings in the area will worsen the existing situation where such infrastructure is perceived to be already overstretched. The potential additional burden of three dwellings and households in this regard is not considered to be of a magnitude which would warrant the refusal of planning permission. It is considered that local infrastructure does have the potential to accommodate a development of this scale without significant harm being caused.

- 8.37. Objections received from neighbouring occupiers raise concerns that the proposed development will worsen air quality in the Rottingdean Air Quality Management Area (AQMA). Having regard to the size and scale of the development proposed (i.e. three dwellings) it is considered that the contribution of vehicles associated with the proposed development would be very small compared to existing traffic levels in the surrounding area. Therefore it is considered that the impact on the AQMA in Rottingdean would be negligible.

**9. CONCLUSION**

- 9.1. The proposed development would provide three dwellings suitable for family occupation. The grounds for the dismissal of the previous appeal related to landscape / visual impact and it is considered that these concerns have been overcome. The residential development of a greenfield site will cause harm to ecology / biodiversity however the County Ecologist, having regard to the comments of the Appeal Inspector, considers that the harm which would be caused can be appropriately mitigated and conditions are recommended in this regard. The proposed vehicular access is considered acceptable; the Transport Officer considers that an increased highway safety risk would not result as did the Appeal Inspector previously. All other matters are considered acceptable subject to securing a contribution towards sustainable transport infrastructure and the application of conditions as set out in Section 1 and 10 of this report. Approval is therefore recommended.

**10. EQUALITIES**

- 10.1. It is recommended that the dwellings be required to comply with optional access standards by condition.

**11. DEVELOPER CONTRIBUTIONS****S.106 Agreement**

**The contributions required would be allocated and spent as follows:**

Public transport improvements to include:

- Bus stop improvements (to include accessible kerbs and/or shelters and/or real time passenger information) at the 'Wanderdown Road' north and southbound bus stops on Ovingdean Road and/or
- Crossing improvements (dropped kerbs and tactile paving) to the northbound Wanderdown Road bus stop on Ovingdean Road.

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

1. The proposed development fails to provide necessary sustainable transport infrastructure improvements in the vicinity of the site and therefore fails to address the requirements of Policies CP7 and CP9 of the Brighton and Hove City Plan Part One.



Cllr Mary Mears

BH2018/01336 - Land At Rear Of 1-45 Wanderdown Road

25 July 2018

As a ward councillor for Rottingdean Coastal, I have objected to building on this site in the past, In 2016 the planning Inspector refused a planning application on appeal.

I wish to object to above planning application on the following reasons:

Although with reduced housing numbers in this application I still believe this proposal will have a detrimental impact on the surrounding area, The inspector in the Appeal Decision 2016 made it clear in her summing up, giving visibility from the National Park as a reason for refusal.

In my opinion this planning application is an over development of the site, which is located on the edge of Ovingdean village and part of the Longhill Ridge, it is within the setting of the South Downs National, as stated by the inspector in the Appeal Decision 2016. She clearly makes reference about developing this site and the impact on Ecology and biodiversity, the site is part of a gateway corridor for wildlife. There is also a Tree Preservation Order on site; concerns were raised in the past that even with the order the site was being cleared of trees and vegetation.

My understanding In the City plan part 1 this site (41), although an Urban Fringe site has now been removed from the SHLAA, so does not qualify under (a) of policy SA4 "a site has been allocated for development in a development plan" leaving (b) "a countryside location" can be justified;. I do not believe this planning application addresses this for many reasons including the entrance to this development from Ovingdean Road in my view would be very dangerous, This is a steep road with poor visibility adding another blind access on the bend increases the risk to pedestrians, cyclist and horse riders, who use the road often on a daily basis with many car users in excess of the speed limit.

The planning inspector also observed the alterations to the access would result in significant change to the street scene and it would have a more suburban appearance in contrast to the rural quality of this particular part of Ovingdean Road.

Should the decision be taken to grant this planning application under delegated powers. I wish this planning application to go to the planning committee for decision and reserve my right to speak.

17 January 2019:

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

The planning Inspector turn down an appeal on this site in January 2017. The decision included a refusal for the access drive, The inspector stated the alterations to the access would result in significant changes in the street scene and would have a more suburban appearance in contrast to the rural quality of this particular part of Ovingdean.

This part of Ovingdean road is on a steep bend, and in my view even with the reduced number of properties, the concerns raised by the inspector and local residents has not been addresses in the planning application.

There are also concerns with regards to the adverse effect on the landscape character also commented on by the inspector.

In my opinion the new houses and infrastructure could increase water runoff and potential for flooding to properties in the Vale.

Should the decision be taken to approve the planning application under delegated powers, I wish this planning application to go to the planning committee for decision and reserve my right to speak.



# **ITEM F**

**Varndean College, Surrenden Road  
BH2017/04102  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



# BH2017/04102 Varndean College, Surrenden Road



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2017/04102</b>	<b><u>Ward:</u></b>	<b>Withdean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Varndean College Surrenden Road Brighton BN1 6WQ</b>		
<b><u>Proposal:</u></b>	<b>Installation of an artificial turf pitch with 4.5 metre perimeter fencing and installation of 8no. 15 metre floodlights, alterations to existing adjacent grass playing pitch.</b>		
<b><u>Officer:</u></b>	Sonia Gillam, tel: 292265	<b><u>Valid Date:</u></b>	18.12.2017
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	12.02.2018
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	NTR Planning Clareville House 26-27 Oxendon Street London SW1Y 4EL		
<b><u>Applicant:</u></b>	Varndean College Surrenden Road Brighton BN1 6WQ		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **Minded to Grant** planning permission subject to the expiry of the re-consultation period expiring on the 4<sup>th</sup> March 2019 and no new planning considerations arising, and subject to the 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	2015-119/903		13 December 2017
Proposed Drawing	2015-119/901		13 December 2017
Proposed Drawing	2015-119/902		13 December 2017
Proposed Drawing	D32226/PY	C	13 December 2017
Report/Statement	Bat Activity Survey	Calumma Ecological	8 October 2018
Report/Statement	Arboricultural Impact Analysis	Skerratt	13 December 2017
Proposed Drawing	KL4065-1	A	17 January 2019

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 sporting facilities hereby permitted shall not be in use except between the hours of 07:00 to 21:00 Monday to Saturday and 09:00 to 18:00 on Sundays, Bank and Public Holidays.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
4. The floodlighting hereby permitted shall not be in use except between the hours of 07:00 to 21:00 Monday to Saturday and 09:00 to 18:00 on Sundays, Bank and Public Holidays.  
**Reason:** To safeguard the amenities of the occupiers of the locality and to protect habitats and species from the development hereby approved and to comply with policies SU9, QD26 and QD27 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development
5. The floodlighting units hereby approved shall be '1kw SON-T Scorpius Narrow Beam floodlight with 65 degree hood column mounted at 15 metres, or equivalent specification. The units should be installed in such a manner so as to ensure that light sources and reflectors are not directly visible from the habitable room windows of any residential property directly abutting the site and in accordance with the 'Kingfisher Lighting' drawing D32226/PY rev C dated 08.12.2017 and received 13.12.2017. There shall be no subsequent variation of the lights without the written approval of the LPA.  
**Reason:** To safeguard the amenities enjoyed by the occupiers of adjoining residential properties and to comply with policies TR7, SU9, QD26 and QD27 of the Brighton & Hove Local Plan
6. At no time and under no circumstances shall the light from the floodlights into the habitable room windows of adjacent residential dwellings exceed a level of 5 Ev lux (vertical illuminance).  
**Reason:** To safeguard the amenities of the occupiers of the locality and to comply with policies SU9, QD26 and QD27 of the Brighton & Hove Local Plan.
7. No sound reproduction or amplification equipment (including public address systems, Tannoys, loudspeakers, etc.) which is audible outside the site boundary shall be installed or operated on the site.  
**Reason:** To safeguard the amenities of the occupiers of the locality and to comply with policies SU9, QD25 and QD27 of the Brighton & Hove Local Plan.
8. The surface of the Artificial Turf Pitch hereby approved shall fully permeable enabling rainwater to drain through to a soakaway underneath the playing pitch surface, and retained as such thereafter.  
**Reason:** To control discharge into the chalk ground beneath the pitch, to reduce the risk of flooding and pollution and to comply with policy CP11 of the Brighton & Hove City Plan Part One.
9. No 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 pitch/ hard surfacing materials
- b) samples of all fencing, walls, and any other enclosing and/ or supporting structures
- c) samples of all other materials to be used externally
- d) details of the floodlighting columns including materials and colour

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.

10. Prior to first use of the facilities hereby permitted a Community Use Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of pricing policy, hours of use, access by non-school users/ non-members, management responsibilities and include a mechanism for review. The approved scheme shall be implemented upon commencement of use of the development.

**Reason:** To provide enhanced sport facilities in accordance with policy CP17 of the Brighton & Hove City Plan Part One.

11. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, 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. 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 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

12. The development hereby permitted shall not be in operation until pedestrian crossing improvements (dropped kerbs with paving and tactile paving) are installed at the junction of and across the vehicle access to the site with Surrenden Road, and at the junction of and across Surrenden Road (north side and southbound lane) with the vehicle access to the site, and at the junction of and across Surrenden Crescent with Surrenden Road.

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

13. The development hereby permitted shall not be in operation 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.

14. The development hereby permitted shall not be occupied until details showing the type, number, location and timescale for implementation of the compensatory bat boxes has been submitted to and approved in writing by the Local Planning Authority. The scheme shall then be carried out in strict accordance with the approved details and thereafter retained.

**Reason:** To safeguard these protected species from the impact of the development and ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One and 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 applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the condition.
3. In order to be in line with Policy TR14 Cycle Access and Parking of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22 or will consider other proprietary forms of covered, illuminated, secure cycle storage including cycle stores, "bunkers" and two-tier systems where appropriate.

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

- 2.1. Varndean College is a further education college site located in the north-west corner of the Surrenden campus, which it shares with Downsview Link College, Dorothy Stringer School, Varndean School and Balfour Infant School. The site is bounded by Surrenden Road to the north and west, Draxmont Way to the south and Friar Road and Friar Crescent to the east, all of which are residential streets.



- 2.2. The application site consists of approximately 2.1 hectares of grassland which forms part of the existing Varndean College campus and is situated to the south of the main Varndean College buildings and the Downsview Link College buildings. Immediately to the south is an area of open grass and scrub land owned by the adjacent Dorothy Stringer School, who leave this area unused for biodiversity benefits.
- 2.3. The site is currently used for sports, and is marked out as two adult grass football pitches. As well as use by College students the pitches are used by external and community sports clubs at the weekends, as well as by other educational establishments on the wider Surrenden Campus.
- 2.4. The application consists of:
- A 3G artificial turf pitch (100x64m<sup>2</sup>) specified for football use and sized to allow senior level match play
  - Full perimeter fencing (4.5 metres in height) and segregated area for spectators
  - Enhanced pedestrian access to pitch plateau
  - 8 no. 15 metre floodlights to 3G pitch
  - Regrading and seeding of retained grass pitch

### **3. RELEVANT HISTORY**

- 3.1. There is an extensive planning history, mainly for additional and replacement college buildings, remodelling of the site buildings and some minor alterations. Of greatest relevance to this application is the following:
- 3.2. **BH2017/03676** Outline application with some matters reserved for erection of 10no residential units (C3), comprising 1no two bedroom, 6no three bedroom and 3no four bedroom houses, with new access from Surrenden Road, associated car and cycle parking and approval of reserved matters for access and layout. Under consideration.

### **4. REPRESENTATIONS**

- 4.1. **One hundred and six (106)** letters have been received objecting to the proposed development.
- 4.2. The main grounds for objection are as follows:
- Loss of playing field/ open space
  - Loss of recreation space
  - Visual amenity
  - Light pollution
  - Traffic
  - Air pollution
  - Noise

- Impact on residential amenity
- Impact on character of area
- Height
- Too close to boundary
- Parking issues
- Highway safety
- Loss of privacy
- Risk of flooding
- Impact on wildlife including bats
- Surplus of pitches in area
- Unsuitable access
- Loss of grass
- Impact of nature reserve
- Litter
- Drainage
- Toxic materials
- Potential land contamination
- Financial gain
- School should look at budgeting
- Covering shortfall in Council funding
- Impact of conservation area
- Disruption from build
- Lack of public consultation
- Restriction on view
- Impact of property values

4.3. Following re-consultation of the revised description, as of 19/02/19 **Fifty three (53)** further representations objecting on the grounds set out within the original objections received.

4.4. **Eleven (11)** letters have been received supporting the proposed development. The main grounds for support are as follows:

- Enhance sports facilities
- Benefit local community
- Healthy living
- Reduce obesity
- Reduce anti-social behaviour
- Minimal increase in noise/ light pollution

4.5. **One (1)** comment as follows:

- Needs to be strict controls to ensure no negative impact is felt by the butterfly haven.
- Floodlights should be turned off overnight to minimise light pollution for the bat activities.

## 5. CONSULTATIONS

- 5.1. **Ecology:** Feb 2018: Further surveys are required to assess the potential impacts of the proposed development on bats, and to inform appropriate mitigation, compensation and enhancement.

Jan 2019: No objection Surveys were carried out broadly in accordance with best practice. Bat activity across the site was relatively low, with foraging activity largely confined to the periphery of the site. The proposed lighting scheme minimises light spill onto the butterfly haven and broadleaved woodland, and it is noted that the applicant has proposed management controls to ensure all lighting will be turned off outside the hours of 07:00 and 21:00. It is recommended that these management measures are enforced by a suitably worded condition. The recommendation to install two bat boxes in mature trees to the west is supported. In light of the above, it is recommended that the above application can be supported from an ecological perspective.

- 5.2. **Sport England:** No objection The proposal is considered to meet exception E5 of the adopted Playing Fields Policy which states that the proposal would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing fields.

Brighton & Hove City Council completed and adopted a Playing Pitch Strategy (PPS) in 2017. This identified an overall need for three 3Gs in the whole area for community use, with a shortfall of two 3Gs in both the Central and West areas. Varndean College is on the boundary between the West and Central areas. Although there is a 3G at nearby school Dorothy Stringer, the PPS states that all 3Gs in the area are close to capacity and identifies Varndean College as a strategic site.

- 5.3. **Environmental Health:** No objection subject to conditions relating to hours of use and amplified music.
- 5.4. **Arboriculture:** No objection The overall impact on the trees is minimal with only two trees being removed and some minor impact on others.

- 5.5. **Planning Policy:** No objection  
Jan 2018: Policies CP16 Open Space and CP17 Sports Provision seek the retention, enhancement and more effective use of open space especially playing fields. Policies HO19 and HO20 of the Brighton & Hove Local Plan promote the retention and provision of community facilities subject to meeting specified criteria. The principle of the proposal to enhance two of the colleges playing pitches with continued community access is therefore supported.

However, to ensure effective use of open space and outdoor sport facilities, it is important there is a demonstrated need for the 3G pitch provision.

Feb 2018: The provision of an artificial pitch does not constitute a loss of open space. There is a lack of information to assess whether the proposed location is the most effective within the wider campus site to meet the college and surrounding school requirements. However, in view of Sport England's support

for the proposal and the comments from the Head of PE at Varndean it is considered the principle of this proposal does not conflict with policy.

- 5.6. **Sustainable Transport:** March 2018: No objection subject to conditions relating to pedestrian crossing improvements, cycle parking and disabled parking.

Feb 2019: Further to parking layout submitted: Recommend submission of cycle parking details to ensure that they meet current standards.

- 5.7. **Sports Facilities:** No objection The proposals improve the provision of sports facilities in the city and the opportunity for engagement in sport and physical activity for college pupils, local clubs and residents.
- 5.8. **County Archaeologist: Verbal comment:** No objection No concerns regarding works to the south of the College buildings.

## 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
CP7	Infrastructure and developer contributions
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP16	Open space
CP17	Sports provision

CP18 Healthy city

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  
QD25 External lighting  
QD26 Floodlighting  
QD27 Protection of amenity  
HO19 New community facilities  
HO20 Retention of community facilities

Supplementary Planning Documents:

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

## **8. CONSIDERATIONS & ASSESSMENT**

8.1. The main considerations in the determination of this application relate to the principal of the scheme, visual impact, impact on neighbour amenity, highways, ecology and arboriculture. Objections relating to disruption from build, Council funding, budgeting and financial gain, impact on property values, restriction of views are noted, however are not material planning considerations.

### **8.2. Planning Policy:**

City Plan policies CP16 Open Space and CP17 Sports Provision seek the retention, enhancement and more effective use of open space especially playing fields.

8.3. Policy CP16 supports better, more effective and appropriate use of existing open space. It requires that new provision should optimise accessibility for all users, facilitate sustainable means of access, and provide measures to improve public safety. It seeks the community use of private and schools' open spaces and proactive and appropriate management of open spaces, including an agreed funded maintenance plan. It also requires that proposals minimise light pollution.

8.4. Policy CP17 seeks the enhancement and more effective use of existing indoor and outdoor sports facilities and spaces. It supports the provision of new sports services, facilities and spaces (including extensions to existing provision) especially those that meet identified needs. It states that new provision should meet quality standards, optimise their accessibility and affordability to all users, and proposals should seek to improve the variety of provision in the city.

- 8.5. Policies HO19 and HO20 of the Brighton & Hove Local Plan promote the retention and provision of community facilities subject to meeting specified criteria.
- 8.6. The site lies within the built up area and is identified open space and forms part of a playing field. The site is currently used for sports, and is marked out as two adult sized grass football pitches. The application states that the intensive level of use of the pitches, with approximately 5 matches a week plus regular training sessions, has resulted in a degrading of grass pitch quality. The College are keen to rectify this and provide high quality pitch facilities into the future.
- 8.7. The proposal would continue to accommodate a wide age-range of users and be available to local educational establishments and community groups (current users are 5ways Soccer School, Old Varndeanians FC, Withdean FC, Brighton Schools FA Rep Team, Varndean School and Dorothy Stringer School). Within the planning submission documents, Varndean and Dorothy Stringer Schools, as well as other community sporting organisations, have expressed their support for this proposal and the value it will bring to the sporting future of the locality and the wider city.
- 8.8. The provision of a floodlit all weather pitch would enhance the physical educational / sports offer from the College for its students and for the wider community. The proposal is therefore supported in principle; it would substantially enhance the quality of the sports facilities, which would accord with the general policy approach for open space and sports provision as set out in policies CP16 and CP17.
- 8.9. The proposal meets the policy requirements in that it provides improved sporting facilities close to the community and has good pedestrian and cycle links. Sport England confirm that the development is for sporting facilities of sufficient benefit to the community to outweigh the loss of the grass playing pitch, and therefore has no objection. It is noted that Brighton & Hove City Council completed and adopted a Playing Pitch Strategy (PPS) in 2017. This identified an overall need for three 3Gs in the whole area for community use, with a shortfall of two 3Gs in both the Central and West areas. Varndean College is on the boundary between the West and Central areas. Although there is a 3G at nearby school Dorothy Stringer, the PPS states that all 3Gs in the area are close to capacity and identifies Varndean College as a strategic site.
- 8.10. The Council's Sports Facilities team support the proposal, and, given Sport England's support for the scheme, the Council's Planning Policy has no objection to the proposal.
- 8.11. A community use agreement can be secured by condition to ensure the development directly benefits the local community; this is considered to be a significant merit to this application.

8.12. The principle of development is therefore accepted subject to any other material considerations; as set out below the scheme is considered to have been designed to sufficiently protect the amenity of adjacent residential properties and the natural environment.

**8.13. Design and Appearance:**

The application is for the installation of an artificial turf pitch (ATP) to the western half of the site. Full perimeter fencing will be installed to the ATP (4.5 metres in height) with allowance made for a segregated area for spectators to stand. On the eastern half of the application site the grass football pitch will be retained and regraded to accord with FA guidelines on pitch gradients. The pitch will also be re-turfed to a high quality. In addition 8 no. 15 metre floodlights will be provided for the ATP to allow for match play and practice outside of daylight hours.

8.14. The existing pitch area is accessed in two ways, either via a set of steps to the north-western corner or an accessible ramp to the north-eastern corner. The proposals include a reconfiguration of both of these access points to ensure full compliance with FA guidance and best practice in terms of accessibility. A new footpath connection to the west will be constructed allowing safe pedestrian access from parking located at the Surrenden Road entrance. Additionally a new access track will be provided as part of the pitch enhancement proposals. The gravel track will allow maintenance equipment and emergency vehicles to access the pitch area.

8.15. The existing pitch plateau has been excavated into a sloping site resulting in steeply sloping embankments. A certain amount of cut-and-fill will be undertaken across both the ATP and grass pitch to allow the pitches to be levelled to gradients in line with FA guidelines.

8.16. The raised pitch, supporting structures and fencing would be visible from the public realm, notably from Stringer Way to the south, although they would be partially shielded by the lay of the land, trees/ vegetation and the butterfly bank. It is considered that the development would generally retain the green visual character and sports pitch appearance of the existing site context; however it is recommended that the fencing is green in colour to limit visual impact and that material samples are sought by condition to ensure they are appropriate in appearance.

8.17. It is proposed that the 3G pitch would have 8no. 15 metre floodlights. Again, there is no doubt that they would be visible to some neighbouring properties; however it is considered that the structures would not have an overbearing impact or be unduly harmful to neighbours' outlook. Given the site context the masts would not stand out as visually intrusive and would be appropriate in terms of visual appearance.

**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. It is important to ensure that the impacts of noise, external lighting and floodlighting are minimised in line with policies SU10, QD25, QD26 and QD27 in the Brighton & Hove Local Plan and that planning conditions are applied to restrict the hours and frequency of use.
- 8.20. To the east are the residential properties of Friar Crescent. The pitch closest to the residential properties is proposed to be retained as a grass pitch, albeit enhanced, with the proposed ATP being on the western side of the site furthest from these residential dwellings (in excess of 90m). The properties of Stringer Way and Varndean Holt sit immediately adjacent to the south-west of the application site, and benefit from a buffer of large, mature trees which screen the properties from the school grounds.
- 8.21. Floodlighting of the proposed ATP will be provided to allow extended periods of play after dusk, particularly in the winter months. The proposed floodlighting complies with FA standards on lux levels and uniformity and has been designed to limit light spill to either residential or ecology receptors in line with the relevant guidance.
- 8.22. The submission contains a light assessment; to a higher 'rural' standard. It shows the limitation in illuminance by using lower power when training is occurring (the majority of the use) compared with a match; spill shields, angling the hinged lighting heads onto the pitch (which can be adjusted as necessary), plus down lighters (to protect bats, which also prevents spill to sky). Additionally, as mentioned, there is distance between the houses to the east and the single lit pitch (positioned to the west). There is distance plus screening to the west; there are further trees to be planted. To the south there is screening and the time restrictions will help prevent light nuisance. To the north the pitch is lower than its surrounds and screened by the college buildings.
- 8.23. In terms of noise the existing pair of pitches is already in use and the restriction in times will prevent neighbour nuisance.
- 8.24. The Council's Environmental Health officer has no objection to the scheme provided the facilities are in use only Monday to Saturday 07:00 to 21:00, Sundays and Bank Holidays 09:00 to 18:00, to safeguard the amenities of the locality. Additionally no amplified music should be audible outside of the site boundary. These measures can be secured by condition.

**8.25. Sustainable Transport:**

The application states that the proposals are for an enhancement of sporting facilities which is required to facilitate the current level of usage by Varndean College, surrounding educational establishments and community sports clubs. There would be some increase in evening use envisaged during winter months, facilitated by the proposed floodlighting, however this is likely to provide for extended hours of play for the existing users.



- 8.26. Given the switch off times of the floodlights (9pm on weekdays, 6pm at weekends) the increase would be modest in its extent and primarily outside of times of peak traffic movements. The Council's Highways officer agrees that there is not forecast to be a significant increase in vehicle trip generation in peak travel periods as a result of these proposals therefore any impact on carriageways would be minimal and within their capacity.
- 8.27. The facility would cater for students elsewhere on the wider Surrenden Campus. These students will access the site on foot due to their immediate proximity. The Council's Highways officer has advised that it is likely that there will be an increase in pedestrian and mobility and visually impaired trip generation. Although footways in the vicinity of the site have been improved over the years there are still junctions along Surrenden Road that need footway improvements. In order to ensure that the proposed development provides for the transport demand it generates and the needs of pedestrians and the mobility and visually impaired, the Highways officer has requested that dropped kerbs with tactile paving are installed within the vicinity of the site to improve access to and from the site. This can be secured by condition.
- 8.28. The application states that, as currently, visiting sports and community clubs would be permitted to use the College's existing parking areas (included 5 disabled bays) during evening and weekend periods where demand from the primary educational use will be at its lowest. This includes 16 cycle parking spaces. It is expected that the 41 car parking bays along the southern side of the building are most likely to be used due to their proximity to the pitch area. There is also room for 6 minibuses along that stretch.
- 8.29. It is not therefore anticipated that any significant demand for parking over and above the existing would be generated. Therefore there would be no significant impact arising from on-street or overspill parking. Given this, it is not considered that further vehicle parking provision is required in this case.
- 8.30. The Highways officer has highlighted that the location of the cycle parking may not be highly convenient for the pitch. However further provision is not deemed necessary as neither of the two existing cycle parking locations are a great distance from the proposed facilities. However it is recommended that details of cycle parking facilities are submitted to ensure they meet current standards. This can be secured by condition.
- 8.31. Ecology:**  
Bat surveys have been undertaken by the applicant that demonstrate that bat activity across the site is relatively low, with foraging activity largely confined to the periphery of the site. The installation of two bat boxes in mature trees to the west of the site is welcomed.
- 8.32. Additionally the proposed lighting scheme minimises light spill onto the butterfly haven and broadleaved woodland, and it is noted that the applicant has

proposed management controls to ensure all lighting will be turned off outside the hours of 07:00 and 21:00. This can be secured by condition.

8.33. The proposed development site is adjacent to the Dorothy Stringer Wildlife Area which lies to the south and has been proposed as a Local Wildlife Site (LWS), for its species-rich chalk grassland, wildlife pond, deciduous woodland, and the associated species, most notably invertebrates. This is noted however there is not proposed to be any encroachment into the Wildlife Area from the proposed development.

8.34. The County Ecologist has advised that the scheme can be supported from an ecological perspective.

**8.35. Arboriculture:**

This site is covered by a Tree Preservation Order. The proposed changes would require the loss of a small Hawthorn plus a Horse Chestnut tree to the west of the site, covered by this order. There will also be some changes to soil levels close to three other trees on the south boundary however this would not be significant and these trees are not currently protected by this order.

8.36. Overall the impact of the scheme on the local treescape is minimal and provided due care is taken during the construction period the losses would be negligible; the Council's Arboriculture Officer has no objections. A condition to provide protective fencing is recommended which can be secured by condition.

**8.37. Other issues:**

A number of the neighbour objections received have mentioned potential toxic materials/ toxins leaking into ground from the plastics used in the pitches. The application states that the ATP would be constructed in accordance with the current industry position statement on the use of rubber crumb infills for 3G sports pitches, which is supported by key stake holders including Sport England, Sports and Playing Construction Association (SAPCA) and the FA.

8.38. Sport England advise that it has monitored numerous independent scientific studies on this issue, which have reported a very low/negligible level of concern for human health as a result of 3G pitches and rubber crumb. Indeed, the European Chemicals Agency has recently published its own findings, following an extensive EU-wide study, and has found no reason to advise people against playing sport on 3G pitches with rubber crumb.

8.39. Concerns are also raised from local residents regarding potential drainage problems from the proposed ATP. The application states that the proposed ATP will be fully permeable, and it is intended that rainwater will drain through to a soakaway underneath the playing pitch surface so that discharge into the chalk ground beneath can be controlled. This can be secured by condition.

## **9. EQUALITIES**

- 9.1. The proposal includes a reconfiguration of both access points, including a new ramp access, to ensure full compliance with FA guidance and best practice in terms of accessibility.



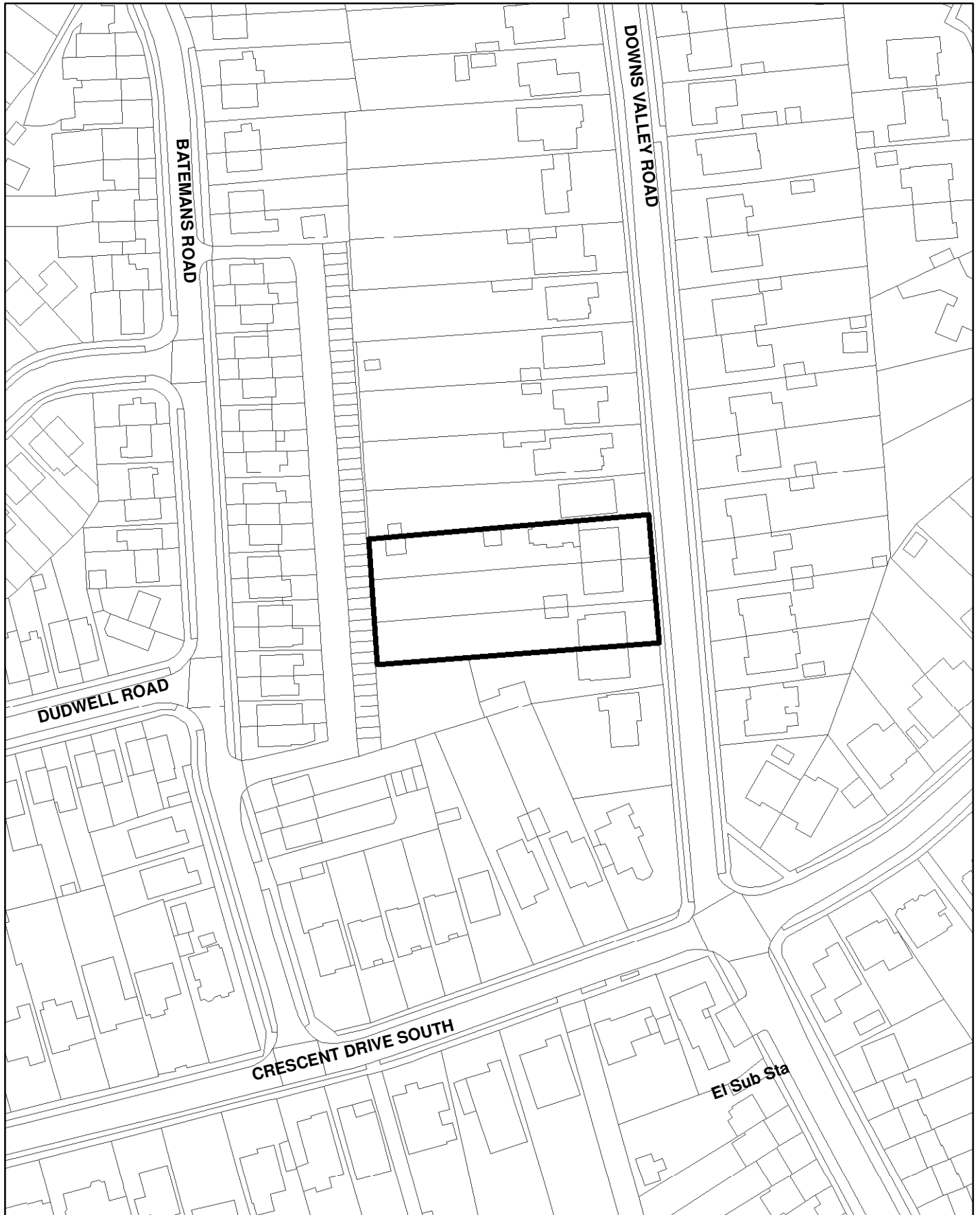
# **ITEM G**

**106, 108 & 110 Downs Valley Road, Brighton  
BH2018/02558  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



# BH2018/02558 106, 108 & 110 Downs Valley Road



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2018/02558</b>	<b><u>Ward:</u></b>	<b>Woodingdean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>106, 108 &amp; 110 Downs Valley Road Brighton BN2 6RF</b>		
<b><u>Proposal:</u></b>	<b>Construction of four detached family houses (C3) together with associated parking, cycle parking and landscaping.</b>		
<b><u>Officer:</u></b>	Laura Hamlyn, tel: 292205	<b><u>Valid Date:</u></b>	31.08.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	26.10.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mr Paul Burgess MRTPI 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Mr & Mrs Marie & Tony Smith C/O Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		

The application was deferred at the committee meeting on 9th Jan 2019 for the submission of additional information on the access and egress arrangements to the site.

## 1. RECOMMENDATION

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

1. The proposed houses, by reason of their limited plot size, their width, height, form, detailing and proximity to each other and neighbouring boundaries, represent an unsympathetic and cramped form of development representative of an overdevelopment of the site. The proposal would fail to respect the prevailing character of the locality and would cause significant harm to the character and appearance of the area. As such, the proposals would be contrary to policy CP12 of the Brighton and Hove City Plan Part One.
2. The creation of four units of living unit would introduce a much greater level of activity, including vehicle activity, with resultant comings and goings adjacent to nos. 108 and 110 Downs Valley Road. It is considered that this represents significant harm for occupiers of these properties in terms of noise and disturbance. The proposal therefore leads to a harmful loss of amenity and is contrary to policies SU10 and QD27 of the Brighton and Hove Local Plan.
3. The proposed development, by reason of its height, and positioning of the windows, would enable harmful overlooking of the rear gardens to 106, 108 and 110 Downs Valley Road, leading to a harmful loss of amenity. The proposed development is therefore contrary to policy QD27 of the Brighton and Hove Local Plan.

### Informatives:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location and block plan	PL_011		13 August 2018
Floor Plans Proposed	PL_012	C	12 February 2019
Floor Plans Proposed	PL_013	C	12 February 2019
Roof Plan Proposed	PL_014	C	12 February 2019
Sections Proposed	PL_015	C	12 February 2019
Elevations Proposed	PL_016	C	12 February 2019
Elevations Proposed	PL_017	C	12 February 2019
Elevations Proposed	PL_018	C	12 February 2019
Location and block plan	PL_001		12 February 2019
Elevations Proposed	PL_019	C	12 February 2019
Elevations Proposed	PL_020	C	12 February 2019
Sections Proposed	PL_022	C	12 February 2019
Floor plans/elevations/sect proposed	PL_023		12 February 2019
Statement	PLANNING		12 February 2019
Design and Access Statement			12 February 2019
Proposed Drawing	PL_24		12 February 2019
Proposed Drawing	PL_25		12 February 2019

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

- 2.1. The application relates to rear gardens of three semi-detached bungalows on the west side of Downs Valley Road- one pair and one half of another pair. Downs Valley Road is characterised by a mix of detached and semi-detached bungalows and two storey houses (with a heavy predominance of bungalows) on generous plots, with hipped pitched roofs and a separation from boundaries that contributes to a sense of openness and space.
- 2.2. Planning permission is sought for the construction of four detached houses within the rear gardens of 106-110 Downs Valley Road. Access would be between 108 and 110 Downs Valley Road where there are currently driveways and garages.

## **3. RELEVANT HISTORY**

- 3.1. **BH2018/00336** Erection of 4no detached houses (C3) to rear of existing houses with associated landscaping, car and cycle parking. Refused 22/06/2018 for the following reasons.

- 3.2. The proposed houses, by reason of their limited plot size their width, height, form, detailing and proximity to each other and neighbouring boundaries, represent an unsympathetic and cramped form of development representative of an overdevelopment of the site. The proposal would fail to respect the prevailing character of the locality and would cause significant harm to the character and appearance of the area. As such, the proposals would be contrary to policy CP12 of the Brighton and Hove City Plan Part One.
- 3.3. The creation of four units of living unit would introduce a much greater level of activity, including vehicle activity, with resultant comings and goings adjacent nos. 108 and 110 Downs Valley Road and their rear gardens at times when the area might be expected not to be in use. It is considered that this represents significant harm for occupiers of these properties in terms of noise and disturbance. The proposal therefore leads to a harmful loss of amenity and is contrary to policy QD27 of the Brighton and Hove Local Plan.
- 3.4. The proposed development, by reason of its height, width, bulk, scale, form, position, positioning of windows and proximity to neighbouring boundaries represents an overbearing form of development for occupiers of nos. 104 and 112 Downs Valley Road, resulting in an intrusive sense of enclosure and harmful levels of overlooking. The proposed development is therefore contrary to policy QD27 of the Brighton and Hove Local Plan.
- 3.5. The proposed houses, by reason of the limited floor space and headspace of the third bedroom, are considered to provide a cramped and oppressive standard of living accommodation, which would fail to provide for the needs of occupiers. The proposed development is therefore contrary to policy QD27 of the Brighton and Hove Local Plan.
- 3.6. 106 Downs Valley Road  
**BH2014/02531** Erection of building for use as cattery. Approved 10/12/201.
- 3.7. **BH2000/00173/FP** Retention of unit of accommodation (approved under ref BH1999/00582/FP) without complying with condition 4 of consent requiring its use to be ancillary to main property. Refused 15/03/2000.
- 3.8. **BH1999/00582/FP:** Demolition of existing garage and erection of single storey rear extension to provide unit of accommodation for dependant relative. Approved 25/05/1999.
- 3.9. **Examples referred to in Planning Statement:**  
80 & 80A Crescent Drive South  
**BH2016/05020-** Demolition of existing 2no detached dwellings and erection of 4no three bedroom two storey detached dwellings. Approved 19/12/2016.
- 3.10. **69/2299-** 'Colt' 2 bedroom bungalow and garage. Approved 27/01/1970.
- 3.11. Broad Green Mews  
**BH2002/00933/OA-** Construction of two semi-detached dwellings. Approved 08/07/2002.

3.12. Land rear of 49/49A Downs Valley Road

**BH2012/00887-** Erection of 2 storey dwelling with attached garage and solar panels (part retrospective). Approved 18/07/2012.

3.13. **BH2007/04160-** Erection of 2 storey dwelling with attached garage. Approved 20/11/2008.

3.14. Land rear of 47 Downs Valley Road

**18.61/344-** Erection of bungalow and garage. Approved 28/02/1961.

3.15. 35 Crescent Drive North

**BH2015/03612-** Demolition of existing bungalow and erection of 2no four bedroom houses (C3) with associated off street parking and landscaping. Approved 26/05/2016.

3.16. 39 Crescent Drive North

**BH2017/01216-** Demolition of existing house and outbuildings and erection of 5no three bedroom houses (C3) with provision of 8no vehicle parking spaces and associated landscaping, cycle and bin storage. Refused 21/11/2017, appeal in progress.

#### 4. REPRESENTATIONS

4.1. **One (1)** representation has been received, objecting to the proposed development on the following grounds:

- Overlooking of 104 Downs Valley Road
- Noise and disturbance during construction
- Additional on street parking demand
- Oversubscribed services including GP surgeries and school/nursery places

4.2. **Eight (8)** representations have been received, supporting the proposed development on the following grounds:

- Excessive size of the gardens, better use of the site
- Attractive design in keeping with the area
- More homes needed
- No impact on 112 Downs Valley Road
- Proximity to good schools and bus routes

4.3. **One (1)** representation has been received, commenting on the proposed development:

- Swift nest bricks to be required by planning condition

4.4. **Councillor Mears** supports the proposed development. A copy of the support is attached.

#### 5. CONSULTATIONS

5.1. **Sustainable Transport: Objection**

Car parking spaces: Amendments are required to ensure that only a single car may park in the hardstanding for each of the 4 new dwellings. Similarly, changes are needed to the parking areas of the two existing dwellings to avoid a 3rd vehicle attempting to park on each whilst [partly obstruction the access road. Ensuring this may require include an increase in amenity space protected by permanent structures e.g. walls/bollards. Notwithstanding this a condition is also sought to limit any parking to intended spaces.

5.2. Servicing: A statement should be provided to explain the proposed arrangements for collecting waste and recycling. These should also be clearly shown also in a plan/diagram that can be secured. Arrangements must be agreed with both City Clean AND the Highway Authority. If agreed then a prescriptive condition will be sought to secure operation in accordance with this. No further condition to secure a separate Refuse/Recycling Management Plan at a later time will be sought.

5.3. Overall design of the access road and turning area: This needs amending in various ways to enable satisfactory pedestrian and vehicle movements. Changes should include:

- A carriageway width that allows a car and a delivery vehicles to pass or, if refuse/recycling vehicles will use the road, a car and a refuse/recycling vehicle. two vehicles to pass.
- A 1.2m demarcated pedestrian footpath on its southern edge. Provided changes are made to limit the amount of parking within the development then the LHA is content for this to be provided within the width of the carriageway. However any hedges must be clear of this with a realistic width provided for these to avoid overgrowth. A traffic calming feature will also be needed to limit vehicle speeds.
- (subject to tracking) an increase in the carriageway width in front of the 4 new dwellings to ensure that vehicles can access driveways (for perpendicular parking this will require 6m) and that larger vehicles can maneuverer within the turning head so they can both enter and exit the site in forward gear.
- Measures to ensure the safety of pedestrians entering and exiting the garden entrances adjacent to the access road.

5.4. A vehicle swept path analysis should be provided to evidence the amended proposals.

5.5. **Update: Objection.**

*Amended drawings and additional information were received on 17 Jan 2019.*

The applicant has made some amendments to the design since the Highway Authority's main comments and this is welcomed. However the Highway Authority's principle concerns, as set out in our most recent response, have not been addressed.

5.6. **Update: No objection.**

*Amended drawings and additional information were received on 12 Feb 2019.*

No objection subject to a S.106 agreement of £6,000, and the recommended conditions and informatives. Further details are required on the street design and cycle parking.

5.7. **Arboriculture:** No objection.

The properties of 106-110 Downs Valley Road all have long rear gardens with lots of potential landscaping space. The majority of these are small trees, shrubs and hedging none of which have high amenity value. The most significant trees are a group of four small laburnum trees, not particularly good individual specimens but as a group will look pretty when in flower, these are to be retained within the garden of number 108.

5.8. There are no arboricultural reasons to object to this proposal although there will be a significant loss of potential landscaping space and this is to be regretted. However, the submission of a strong landscaping plan should go some way to mitigate this.

5.9. **Ecology:** No objection.

There are no sites designated for their nature conservation interest that are likely to be impacted. Whilst there are records of some notable species in the local area, many of these are associated with open areas to the east and west. However, there are local records of reptiles, hedgehogs and notable birds such as starling and house sparrow. There is the potential that reptiles might be present in these rough areas, although the site is relatively isolated and the areas of suitable habitat appear small, so the risk is likely to be low. It is recommended that a precautionary approach is taken to the clearance of these areas, i.e. phased strimming (one high cut to c. 25cm, then a low cut after 24 hours, working in one direction towards any retained habitat or neighbouring gardens. If protected species are encountered, work should stop and advice should be sought from a suitably qualified ecologist on how to proceed.

5.10. There is a pond on site, but it is small and ornamental with little apparent vegetation, and the surrounding terrestrial habitat is sub-optimal. There are no records of great crested newts within 500m of the proposed development. The risk of GCN being present is therefore low, and they do not need to be considered further.

5.11. Given the potential presence of hedgehogs (listed as a Species of Principal Importance under section 41 of the Natural Environment & Rural Communities Act), it is recommended that any fences between properties should include gaps for hedgehogs. It would also be good to require bird boxes targeting house sparrows (and possibly starlings). Landscaping should use native species or species of known value to wildlife. Annex 7 of SPD11 includes advice on suitable species. It is recommended that the standard informative on breeding birds be added.

## 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

### Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP14	Housing density
CP19	Housing mix

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

TR7	Safe Development
TR14	Cycle access and parking
SU10	Noise Nuisance
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

### Supplementary Planning Documents:

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

## 8. CONSIDERATIONS & ASSESSMENT

8.1. The main considerations material to this application are the principle of development on the site, the impacts of the proposed dwellings on the character and appearance of the street, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, sustainability and traffic issues.

8.2. Background

This application is a resubmission following the refusal of application BH2018/00336. The proposal has been amended in the following ways:

- The gaps between the proposed buildings have been increased from approx. 1.1m to 1.7m.
- The gap to the boundary with no.104 has been decreased from 1.9m to 1.1m.
- The gap to the boundary with no.112 has been decreased from 1.9m to 1.0m.
- The depth of the first floor projection has been increased by 0.5m.
- The access road width has been decreased to allow for wider footpaths and planting to add acoustic screening.
- The kerb radii within the site have been reduced to allow for more planting and screening.
- Additional planting is proposed to the site boundaries to prevent overlooking of neighbouring properties in Downs Valley Road and Batemans Road.
- The proposed site entrance kerb radii have been reduced for better parking access for the existing houses.
- The front elevations have a 'missing brick' frontage to obscure views of 104-112 Downs Valley Road.
- The eaves of the properties have been raised by 0.5m, while the ridges remain approximately the same height, to provide more accommodation at first floor level.
- The previously proposed trees to the rear gardens have been omitted and the patios altered.

8.3. During the course of the application, it emerged that there were Transport concerns with the application as submitted. Amended drawings and additional information were received on 17 Jan 2019 and 12 Feb 2019. This recommendation is based on the most recent drawings.

8.4. Principle of Development

The proposed dwellings would be sited with residential gardens to the rear of three existing bungalows. Paragraph 122 (d) of the NPPF sets out that planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change.

8.5. 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.

- 8.6. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).
- 8.7. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation, 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).
- 8.8. In principle, backland development could be accepted in this location, subject to other material planning considerations set out below.
- 8.9. Design and Appearance  
The built form in the locality comprises detached bungalows to the north on Downs Valley Road, semi-detached bungalows on the eastern side as well as a detached two storey house to the south of the application properties. All these properties are set on generous plots, with boundary separation, and mostly hipped roofs which combine to produce a spacious and open feel to the area.
- 8.10. To the west on Batemans Road are closer set two storey semi-detached houses, with gable end roofs, on narrower plots with shallower rear gardens. The pattern of development on this road feels significantly more dense than on Downs Valley Road. There is a long terrace of single storey residential garages separating the application properties from the rear gardens of these properties.
- 8.11. The proposal is for 4 no 2 storey detached houses. Broadly, the development would bisect the plots north/south. The existing bungalows have 50m rear gardens, and the proposal would reduce these to approx. 18m. The proposed dwellings would have small area of hardstanding with some landscaping as well as a small rear garden for each of approx. 8.5m in depth.
- 8.12. The proposed subdivision of the plot would result in a significant shortening of the rear gardens of the existing bungalows. In this instance, however, it is not considered that these properties would appear unduly cramped within their plots given the depth of the retained area and the scale of the bungalows.

- 8.13. The plot size of each of the existing plots at nos.106-110 is approx. 700sqm, and this is typical for plots on the east side of Downs Valley Road. The proposed dwellings, excluding the access road, would occupy 790sqm. In this context the proposed plots would be uncharacteristically small.
- 8.14. The scheme has been amended to increase the gaps between the proposed dwellings, however this is in part at the expense of the gaps to the neighbouring boundaries. It is considered that the proposed amendments to the arrangement of the plots and dwellings would not adequately address the previous reason for refusal on design.
- 8.15. The previous scheme was considered to superficially reference characteristics of properties in the vicinity, by matching the height of the existing bungalows, using a pitched roof, and finishing the dwellings in facing brickwork. However the pitch of the roofs was considered uncharacteristically steep, and the jettied front projection was considered to compound the visual prominence of the inappropriate roof form.
- 8.16. The scheme has been amended to increase the height of the eaves, while retaining approximately the same ridge height. This would lower the pitch of the roofs. However the difference in the overall visual appearance is not significant as a result of this amendment. The proposed roof form is still considered to be inappropriate in this context.
- 8.17. The jettied front projection has been amended to introduce a 'missing brick' frontage to obscure direct views of 104-112 Downs Valley Road. This amendment to the surface but not the form of the building would not address the previous concerns around design.
- 8.18. Overall it is considered that the previous reason for refusal on design has not been adequately addressed. The proposed houses, by reason of their limited plot size, their width, height, form, detailing and proximity to each other and neighbouring properties, would represent a cramped form of development, representative of overdevelopment of the site. The proposal would fail to respect the prevailing character of the area. As such the proposal would be contrary to policy CP12 of the Brighton and Hove City Plan Part One.
- 8.19. The development would have had space for some limited soft landscaping. If the development had been considered otherwise acceptable, a full scheme of landscaping would have been secured by condition.
- 8.20. Standard of Accommodation  
The two dwellings to the south would be mirror images of the two dwellings to the north. The layout would otherwise be identical. There would be a kitchen dining room, living room and WC at ground floor level, and three bedrooms (one with ensuite) and a family bathroom at first floor.
- 8.21. The dwellings would have a total floor area of approx. 104sqm. The size of the communal living space on the ground floor would be acceptable and would be well served by natural light, ventilation and outlook.

8.22. The three bedrooms at first floor level would have floor areas of 8.7sqm, 10.9sqm (0.8sqm built in storage), and 15.4sqm (2.0sqm built in storage). With the raised eaves height, no part of the bedrooms would now have a head height of less than 1.8m. As a result of the amendments, the proposed bedrooms would be of an adequate size. The east facing windows to the proposed double bedrooms would have their outlook obscured by missing brick walls, however a window has been introduced to the side of the jettied front projection which would provide some outlook.

8.23. Impact on Neighbouring Amenity

Policy QD27 states that planning permission for any development 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.

8.24. The previous proposal BH2018/00336 was considered to introduce significantly increased levels of activity beyond the existing arrangement, including vehicle movements associated with four households passing close to nos. 108 and 110 Downs Valley Road. It was considered unreasonable for occupiers of these properties to experience the noise and disturbance associated with the intensification of use with noise arising at times and to a degree beyond what would reasonably be expected in this setting. It is noted that a driveway and two residential garages are currently positioned between these houses, but these comings and goings are associated only with the occupiers of these two properties, and forms a typical and neighbourly relationship.

8.25. In order to mitigate the impact of the increased levels of activity, the current application proposes to install a 1.8m high acoustic brick wall to protect the gardens of nos. 106, 108 & 110, as well as planting alongside the brick wall and the sides of nos. 108 & 110. It is considered that the modest space allocated to the planting would be insufficient to provide acoustic screening. Even well-established planting is not as effective as acoustic fencing or brick walls. The proposed acoustic brick wall is likely to adequately protect the gardens from the noise associated with the additional comings and goings, although further details on the bricks would be sought by condition had the proposal been otherwise acceptable.

8.26. The agent confirmed by email dated 16 Nov 2018 that the side windows at 108 and 110 Downs Valley Road serve the kitchen, bathroom and toilet. The kitchens are served by windows facing to the rear in addition to these side facing windows. While the acoustic brick wall is likely to largely mitigate the potential impact on the rear garden, the side facing windows are likely to transmit noise to the kitchens which are considered to be habitable rooms. It is considered that the additional comings and goings, and vehicle noise and associated disturbance would impinge to an unacceptable degree on the tranquillity enjoyed by occupiers at nos. 108 & 110.

8.27. The proposed houses would be situated approximately 30m from the rear elevations of nos. 106-110 Downs Valley Road and approx. 10m from their rear

gardens. The distance between the proposed and existing dwellings reduces the potential for mutual overlooking between internal rooms.

8.28. The previous scheme had two east facing first floor bedroom windows to each proposed dwelling, which were considered to enable harmful overlooking of the rear gardens to properties nos.104-112. The overlooking of rear gardens from such an elevated position was considered to represent an uncomfortable arrangement, which was compounded by the density of the development.

8.29. The current proposal has been amended such that one of the two bedroom windows facing east would have its views obscured with a missing brick wall. However the single bedroom with an east facing window would still allow harmful overlooking of the rear gardens of nos.106-110. With the layout of the jettied front projections it is considered that harmful overlooking of nos.104 and 112 would be avoided. Planting is proposed to the boundaries to further mitigate overlooking. It is considered that planting on the site boundary would not adequately address this concern, as the retention of planting cannot be secured indefinitely. It is considered that the previous concern around overlooking has not been adequately addressed.

8.30. The proposed development would result in some overshadowing of the lower parts of the gardens of nos. 104 and 112 Downs Valley Road. Given the distance of the affected areas from the host properties, it is considered that this would not result in significant harm to neighbouring amenity.

8.31. The proposed development would be situated sufficiently far from properties on Batemans Road to avoid any significant overshadowing, loss of outlook or increased sense of enclosure. There is some existing screening from a terrace of garages between the site and Batemans Road which would safeguard against overlooking from rear bedroom windows.

#### 8.32. Sustainable Transport

The application was deferred at the committee meeting on 9th Jan 2019 for the submission of additional information on the access and egress arrangements to the site. Amended drawings and additional information was received on 17th Jan and 12th Feb 2019. As a result of these amendments, it is considered that the access arrangements would no longer warrant refusal of the application.

8.33. If the proposal had been considered otherwise acceptable, conditions would have been applied to secure further details of the proposed street design, cycle parking, and the implementation of the crossover and access. In addition a sustainable transport contribution of £6,000 would have been sought.

#### 8.34. Sustainability

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 would have been secured by condition had the proposal been otherwise acceptable.

#### 8.35. Arboriculture and Ecology

It is considered that the proposal would not result in unacceptable impact in terms of arboriculture or ecology. Given that policy CP10 seeks to provide net gains for biodiversity wherever possible, if the proposal has been considered otherwise acceptable, a condition would have been applied to secure a landscaping scheme.

#### 8.36. Other matters

The planning statement provided with the application refers to other sites in Woodingdean where permission has been granted for backland development. These sites are not directly comparable for various reasons, including the number of dwellings proposed, the presence of other backland development in the immediate vicinity, the size of the access and the gaps to the adjacent properties.

8.37. For comparison, the current proposal would have the following measurements:

- access: 5.1m wide, drive: between 4.1m and 4.8m wide
- no gap to nos.108 or 110

#### 8.38. 80 & 80A Crescent Drive South

Under application BH2016/05020, a net increase in two dwellings was granted permission on this site. This differs from the current proposal in that there was an existing access to two separate dwellings between 82 and 78 Crescent Drive South.

- access: approx. 6m wide, drive annotated as 5.5m wide
- gap to no.82: approx. 0.7m
- gap to no.78: approx. 1.2m

#### 8.39. Broad Green Mews

An outline application was approved under BH2002/00933/OA for two semi-detached dwellings in the land to the rear of 27 Broad Green. The site adjoins the site of 80 & 80a Crescent Drive South (see above). This differs from the current proposal in that this permission was only for two dwellings rather than four and pre-dates the Brighton and Hove Local Plan.

- access: between 3.4m and 5.2m
- gap to 27 Broad Green 1.9m
- gap to 11 Shipley Road 12.8m

#### 8.40. Land to the rear of 49/49A Downs Valley Road

Under application BH2012/00887, one dwelling was granted permission on the site. This was a part retrospective application following the approval of BH2007/04160. This site adjoined another existing backland development at 47A Downs Valley Road, which was granted permission in 1961. This scheme shared the same access as 47A.

- access: approx. 4.2m
- gap to no.49: approx. 1.1m
- gap to no.47: approx. 4.2m

#### 8.41. 35 Crescent Drive North

Under application BH2015/03612, a net increase in one dwelling was granted permission on this site. The pre-existing bungalow was sited significantly behind the building line of nos.33 and 37. The site adjoins 39 Crescent Drive North. It is noted that an application for five dwellings at 39 Crescent Drive North was refused and an appeal is in progress.

## **9. CONCLUSION**

- 9.1. The proposed amendments to the scheme would not adequately address the previous reasons for refusal. The current proposal, by reason of the limited plot size, the width, height, form, detailing, and proximity of the houses, would represent a cramped form of development representative of overdevelopment of the site. The proposed access would result in a much greater level of activity, including vehicle activity, with resultant comings and goings adjacent nos. 108 and 110 Downs Valley Road. It is considered that this represents significant harm for occupiers of these properties in terms of noise and disturbance. Furthermore the proposed development, by reason of its height, and positioning of windows, would enable harmful overlooking of the rear gardens to 106, 108 and 110 Downs Valley Road.
- 9.2. While the proposed development would provide an additional 4 dwellings with a good standard of accommodation, it is considered that this benefit would not outweigh the identified harms.

## **10. EQUALITIES**

- 10.1. Policy HO13 sets out that new residential buildings are expected to be built to a standard whereby they can be adapted to meet the needs of people with disabilities without major structural alterations. If the proposal had been considered otherwise acceptable, a condition would have been applied to secure compliance with Building Regulations Optional Requirement M4(2).

# **ITEM H**

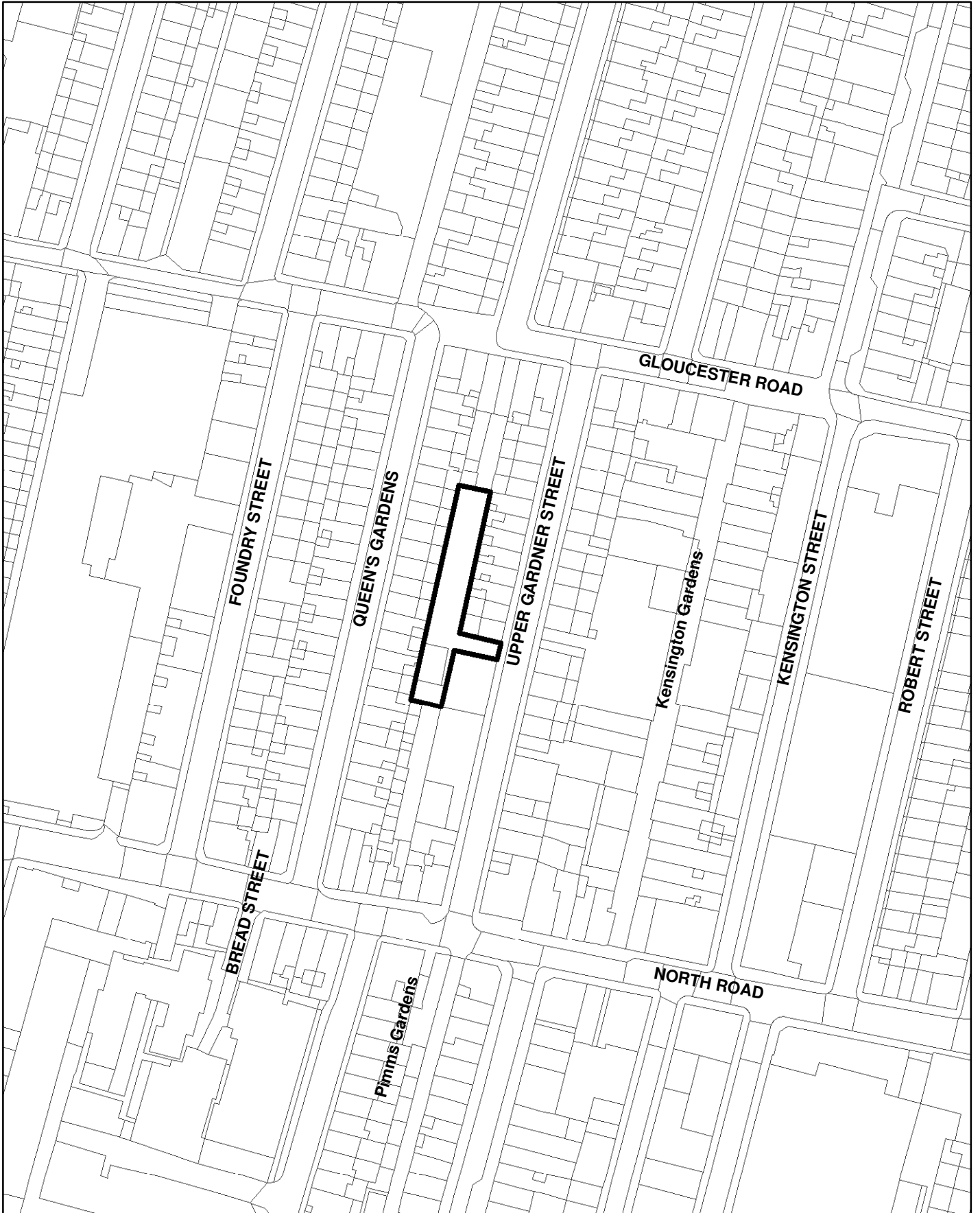
**38A Upper Gardner Street, Brighton  
BH2018/03780  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**





# BH2018/0378 38A Upper Gardner Street



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2018/03780</b>	<b><u>Ward:</u></b>	<b>St. Peter's And North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>38A Upper Gardner Street Brighton BN1 4AN</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing boundary wall and reconstruction of replacement wall.</b>		
<b><u>Officer:</u></b>	Laura Hamlyn, tel: 292205	<b><u>Valid Date:</u></b>	07.12.2018
<b><u>Con Area:</u></b>	North Laine	<b><u>Expiry Date:</u></b>	01.02.2019
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Dowsett Mayhew Planning 63A Ship Street Brighton BN1 1AE		
<b><u>Applicant:</u></b>	Sussex Property Investments Ltd C/o Dowsett Mayhew Planning 63A Ship Street Brighton BN1 1AE		

## 1. RECOMMENDATION

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

Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	17315 101		7 December 2018
Proposed Drawing	TA 1021 10		7 December 2018
Proposed Drawing	TA 1021 11		7 December 2018
Proposed Drawing	TA 1021 12		7 December 2018
Proposed Drawing	TA 1021 13		7 December 2018
Proposed Drawing	TA 1021 15		7 December 2018
Proposed Drawing	TA 1021 16		7 December 2018
Location and block plan	TA 1021 01		7 December 2018
Report/Statement	17315 R02		7 December 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. A smooth painted render finish shall be applied to both sides of the boundary wall and shall be retained as such thereafter.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE8 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

Informatives:

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

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

- 2.1. The application site consists of a vacant plot fronting onto Upper Gardner Street between a large flint faced three-storey warehouse and modern two storey terraces. The vacant lot provides access to the large T-shaped lot to the rear.
- 2.2. The subject site lies within the North Laine conservation area. Upper Gardner Street is a varied street consisting of early 19th century two-storey terraces, modern two-storey houses, the 1887 infant's school, a large warehouse and numerous smaller warehouse/light industrial buildings.
- 2.3. The application follows on from an enforcement case and involvement from Building Control regarding a dangerous structure (boundary wall). A section of the subject boundary wall was required to be removed as directed by Building Control due to health and safety concerns. The Building Act 1984 overrides the need for planning permission in such cases.
- 2.4. The application proposes to demolish the remainder of the boundary wall between the application site and neighbouring properties fronting Queen's Gardens, and to erect a replacement hollow brick wall along the same line and to the same height as the existing (pre-existing) wall.

## **3. RELEVANT HISTORY**

- 3.1. **BH2018/03836**- Demolition of existing storage unit (B8) and erection of 4no two storey residential dwellings (C3). Under consideration.
- 3.2. **BH2018/00641**- Part change of use of existing storage building (B8) to office (B1) with extension to existing building and two storey bridged extension between the existing properties fronting Upper Gardner Street. Application recommended for refusal, appeal on non-determination dismissed 13/02/2019.
- 3.3. 39 Upper Gardner Street  
**BH2014/04276**- Change of use at first floor level from cafe (A3) to offices (B1). Approved 31/03/2015.

- 3.4. **BH2012/02173-** Change of use from retail (A1) to café (A3) on lower ground, ground and first floors and retrospective change of use from café (A3) to office (B1) on second floor and replacement of ground floor sliding doors and fenestration above. Approved 30/04/2013.
- 3.5. **BH2011/01127-** Change of use from storage and distribution (B8) to mixed use retail (A1) and café/restaurant (A3) together with installation of new sliding glazed doors to the front elevation behind an existing timber door. Approved 06/07/2011.

#### 4. REPRESENTATIONS

- 4.1. **Nine (9)** representations have been received, objecting to the proposed development on the following grounds:
- loss of privacy
  - the wall is a party wall and no party wall notice has been served on neighbouring properties
  - the wall is of historic interest
  - it is unclear whether the wall to rear of 35 Queens Gardens would be demolished and rebuilt
  - disruption as a result of demolition and building works
  - damage to neighbouring residents' extensions, patio tiles, decking, wall fittings and/or raised bedding
  - the wall is/was made of flint rather than bungaroosh
  - the removal of the roof over the yard destabilised the wall
  - the drawings do not accurately reflect the pre-existing height of the wall
  - the replacement wall should be finished in flint
  - there is a working sewage waste pipe which exists into the base of the party wall
- 4.2. The **North Laine Community Association**, objects to the proposed development on the following grounds:
- the wall is of historic interest, made of bungaroosh and its loss should be resisted
  - attempt to increase the size of the plot by removing kinks in the wall
  - the wall should be repaired with materials to match
- 4.3. **Councillor Lizzie Deane** objects to the proposed development. A copy of the objection is attached to this report.

#### 5. CONSULTATIONS

- 5.1. **Heritage:** Approve subject to conditions.

Whilst the subject boundary wall dates to the development of Queen's Gardens, it is not visible and is considered a neutral element within the North Laine Conservation Area. Nevertheless, it does have some historic significance, identifying the lot sizes and boundaries of the development between Upper Gardner Street and Queen's Gardens. As such, the reconstruction of the wall on

the same axis is welcomed. It is considered onerous to require the boundary wall, which is not visible from the public realm of the conservation area, to be rebuilt in flint or bungaroosh. Furthermore, it is unlikely a bungaroosh or flint wall would meet current building regulations. However, to ensure a suitable finished appearance, a condition should be included on any consent for a painted render finish to both sides of the wall.

- 5.2. The demolition of the existing flint and bungaroosh wall to the west of the subject site is considered to cause less than substantial harm to the North Laine Conservation Area. The reconstruction of the wall on the same alignment and in a painted rendered finish is considered sufficient to partially mitigate this harm. In accordance with HE6, HE8 and the NPPF, the proposal would preserve the character of the North Laine conservation area and remove a dangerous structure.

## **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  
CP15 Heritage

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

QD27 Protection of amenity  
HE6 Development within or affecting the setting of conservation areas  
HE8 Demolition in conservation areas

#### Supplementary Planning Documents:

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the principle of the proposed demolition, the impact of the proposed replacement wall on the character and appearance of North Laine Conservation Area, and the impact on neighbouring amenities.
- 8.2. The agent confirmed by email dated 11 Feb 2019 that the Design and Access Statement stated in error that the wall to the rear of 28-34 Queens Gardens would be replaced. The submitted drawings accurately represent the proposed development with a replacement wall to 28-35 Queens Gardens.
- 8.3. While the drawings state that the wall would be built to the exact same height and location as the existing (or pre-existing) wall, the wall to the boundary with no.35 would be built slightly to the west. This is a matter of a land ownership dispute. Furthermore, the pre-existing wall was bowed in places where it was apparently insufficiently supported. It is proposed to build a straight replacement wall. The appropriate notice on the neighbouring properties has been served for the application to be determined.

### **8.4. Principle of Development:**

As the wall in question is located in a conservation area, its demolition constitutes development which requires permission. The Structural Engineer's Report (Ref: 17315 R02) received 07 Dec 2018 recommends the demolition of the existing wall and its replacement, as the remaining sections of the boundary wall are continuing to deteriorate and are unstable. It is considered that this report provides suitable justification for the demolition of the wall. The proposed demolition is considered to result in less than substantial harm. The public benefit of ensuring the safety of occupiers and visitors to this and neighbouring sites is considered to outweigh the harm to the North Laine Conservation Area.

### **8.5. Design and Appearance:**

The proposed replacement wall would be finished in painted render, which would lack the character of the existing wall. However the demolition of the existing wall is accepted. It would be onerous to require the replacement boundary wall, which is not visible from the public realm of the conservation area, to be built in flint or bungaroosh. The proposed design is accepted. It is recommended that a condition be applied to ensure the proposed painted render finish to both sides of the wall be retained.

### **8.6. 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.

8.7. It is proposed to erect the replacement wall to the same height as the existing (or pre-existing) wall. Provided the replacement wall is built no higher than the existing (or pre-existing) wall, there would be no appreciable impact on neighbouring amenity.

**8.8. Other Considerations:**

The neighbour representations raise concerns that no party wall notice has been served. This is a civil matter, separate from the consideration of this planning application. It is not necessary for a party wall notice to be served prior to an application for planning permission.

**9. EQUALITIES**

9.1. None identified.



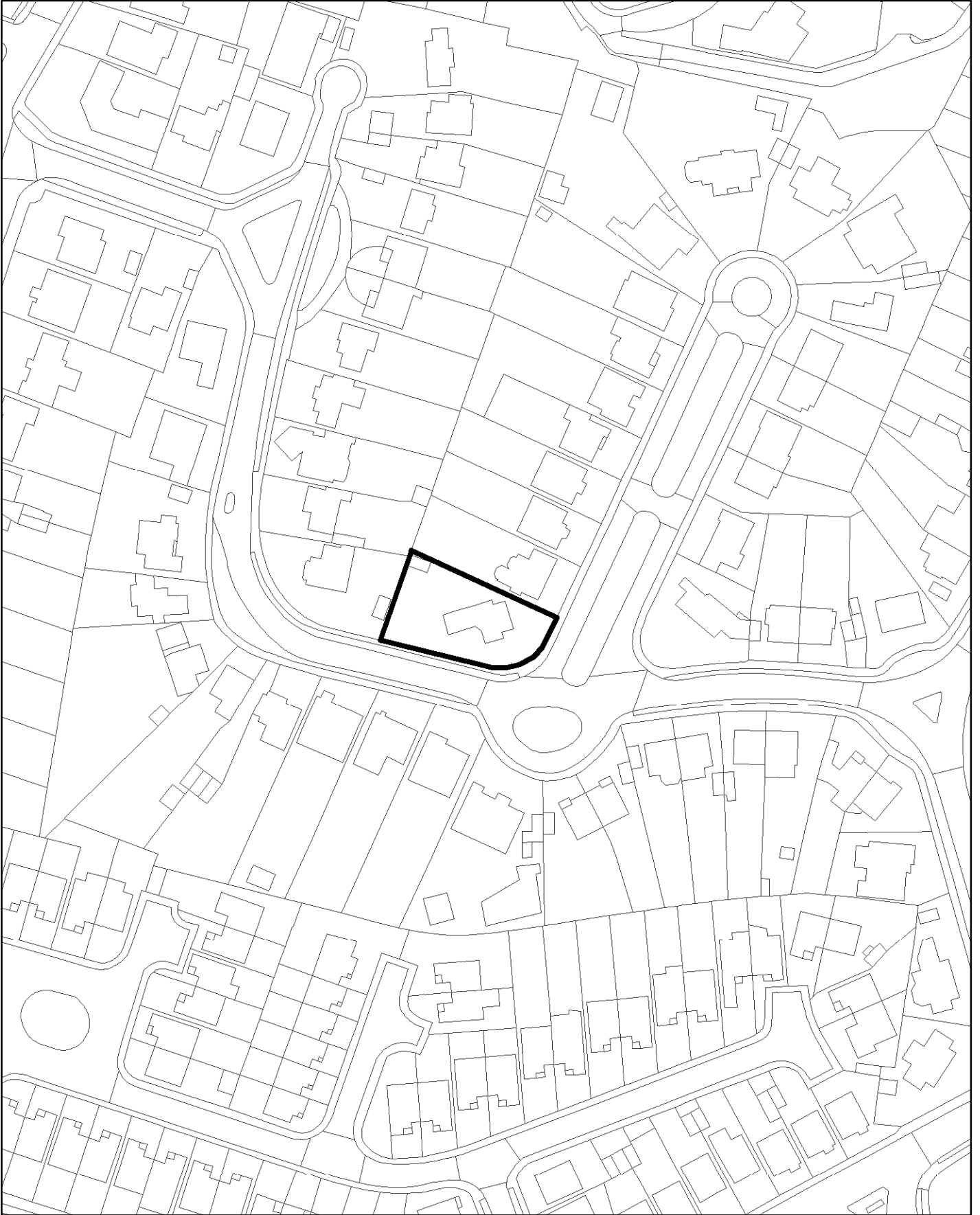
# **ITEM I**

**31 Ridgeside Avenue, Brighton  
BH2018/01172  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



BH2018/01172 31 Ridgeside Avenue



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2018/01172</b>	<b><u>Ward:</u></b>	<b>Patcham Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>31 Ridgeside Avenue Brighton BN1 8WD</b>		
<b><u>Proposal:</u></b>	<b>Erection of 1no three bedroom detached house.</b>		
<b><u>Officer:</u></b>	Joanne Doyle, tel: 292198	<b><u>Valid Date:</u></b>	13.04.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	08.06.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	15.03.2019
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd    Lewis & Co Planning    2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Mr & Mrs J and V Figg    31 Ridgeside Avenue Brighton BN1 8WD		

## 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	-	-	13 April 2018
Proposed Drawing	84915/101	A	14 February 2019
Proposed Drawing	84915/102	A	14 February 2019
Proposed Drawing	84915/103	-	14 February 2019
Proposed Drawing	84915/100 (streetscene)	B	14 February 2019

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 render, and tiling
  - b) details of fenestration

- c) samples of all hard surfacing materials
- d) samples of all other materials to be used externally

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

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

4. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development, shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.  
**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.
5. Prior to the demolition of the garage hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, no. 31 Ridgeside Avenue, 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.
6. The relocated crossover and access shall be constructed prior to the first occupation of the development hereby permitted.  
**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
7. The dwelling hereby permitted shall be completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) prior to first occupation and shall be retained as such thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.  
**Reason:** To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
8. The new residential unit hereby approved shall not 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.

9. The new residential unit hereby approved shall not 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. The windows in the dormer window to the rear elevation of the development hereby permitted shall be obscure glazed and non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and thereafter permanently retained as such.  
**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
  
11. The boundary fence to the east side elevation of the site as shown on plan no. 84915/100 shall measure 2m in height.  
**Reason:** To safeguard the privacy of the occupiers of the property and adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
  
12. No extension, enlargement, alteration or provision within the curtilage of the of the dwellinghouse as provided for within Schedule 2, Part 1, Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and to the character of the area and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
  
13. The development hereby permitted shall not commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.  
**Reason:** As this matter is fundamental to the acceptable delivery of the permission to safeguard the amenities of nearby properties and to safeguard the character and appearance of the area, in addition to comply with policy QD27 of the Brighton and Hove Local Plan and CP12 of the Brighton & Hove City Plan Part One.

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 a vehicle crossover which requires alterations and amendments to areas of the public highway. All necessary costs including any necessary amendments to a Traffic Regulation Order (TRO), the appropriate license and application fees for the crossing and any costs associated with the movement of any existing street furniture will have to be funded by the applicant. Although these works are approved in principle by the Highway Authority, no permission is hereby granted to carry out these works until all necessary and appropriate design details have been submitted and agreed. The crossover is required by law to be constructed under licence from the Highway Authority. The applicant must contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 290729) prior to any works commencing on the public highway.
3. In order to be in line with Policy TR14 Cycle Access and Parking of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient (including not being blocked in a garage for cars and not being at the far end of a rear garden), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22 or will consider other proprietary forms of covered, illuminated, secure cycle storage including cycle stores, "bunkers" and two-tier systems where appropriate.

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

- 2.1. The application site relates to the garden space of 31 Ridgeside Avenue, a detached bungalow located on the north side of Ridgeside Avenue. No. 31 Ridgeside Avenue is located on the corner of Ridgeside Avenue and Old Mill Close, with the plot of land to the west side of this property.
- 2.2. To the north of the site lies the rear garden of 33 Mill Close and to the west of the site the front and rear garden of 29 Ridgeside Avenue; both are 2 storey dwellings. The front of the site is currently bordered by high hedging.
- 2.3. Planning permission is sought for the erection of 1 no three bedroom detached dwelling (C3). In order to accommodate the new dwelling on the site the side garage to the existing property no. 31 Ridgeside Avenue on the site is proposed to be demolished.
- 2.4. During the course of the application the scheme has been amended which includes a reduced height and footprint of the proposed dwelling.



### 3. RELEVANT HISTORY

- 3.1. 65/29A- Outline planning application to form building plot on the side of the existing dwelling. Approved 27.07.1965.

### 4. REPRESENTATIONS

- 4.1. **Thirteen (13)** letters of representation have been received objecting to the application for the following reasons:

- Overdevelopment
- Appearance, size, height and location of the new building inappropriate
- Affect the streetscene
- Result in overshadowing and loss of light
- Result in overshadowing and loss of privacy
- Noise impact
- Traffic/ parking impact
- Loss and lack of garden space
- Loss of garage to no. 31 affect appearance of property
- Inadequate provision for parking
- Too close to boundary
- Restriction of view

- 4.2. **Four (4)** letters of representation have been received in support of the application for the following reasons:

- The building is suitably sized for the area
- A good design
- No loss of privacy
- Safe access
- A new dwelling needed

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

- The house should be the same height as the existing house.
- Cause traffic, noise and disruption

### 5. CONSULTATIONS

- 5.1. **Transport:** No Objection

Subject to the inclusion of the necessary conditions on any permission granted.

### 6. MATERIAL CONSIDERATIONS

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

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

6.2. The development plan is:

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

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

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design
CP14	Housing density
CP15	Heritage
CP19	Housing mix

#### 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
QD15	Landscape design
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

#### Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

8.1. The main considerations in the determination of this application relate to the principle of the development on site, the design of the new dwelling and its

impact on the character and appearance of the streetscene and wider area, the impacts on the amenities of adjacent occupiers, the standard of accommodation to be provided, and sustainability and traffic issues.

- 8.2. The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).
- 8.4. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation, 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. Principle of Development :**

The site is located within the Built-Up Area as defined in City Plan Part One and currently consists of a detached bungalow located on the corner of Ridgeside Avenue and Old Mill Close. The development proposes the creation of a new plot, formed from land within the side and rear garden space of 31 Ridgeside Avenue.
- 8.6. Guidance contained within the NPPF defines residential garden sites such as greenfield land rather than previously developed brownfield land. Whilst the NPPF does not preclude development on greenfield sites, this definition places the onus on Local Planning Authorities to determine whether the development of such sites would be harmful to the character of an area, and to determine planning applications for new development accordingly.
- 8.7. The proposed plot size of the new dwelling would measure approximately 300m<sup>2</sup>, with no. 31 Ridgeside Avenue measuring approximately 350m<sup>2</sup>. These are generally smaller in size to the immediate surrounding development and would contrast with the size and shape of the plot size of no. 29 to the west of the site, measuring approximately 520m<sup>2</sup>.
- 8.8. However, there is a variety of plot sizes and shapes within the surrounding area. The properties to the north and south are predominantly detached

dwelling set in deep plots with large gardens. The properties further to the south of the site of Overhill Gardens are set in more modest plot sizes. The wider area has a variety of plot sizes and shape.

8.9. The site appears to be suitable for development, with the dwelling sited appropriately between 29 and 31 Ridgeside Avenue and the plot of land large enough to accommodate a new dwelling. The new dwelling would also make a modest contribution to the housing demand and make a more efficient and effective use of the site.

8.10. Overall, the subdivision of the plot is considered acceptable in principle.

**8.11. Design and Character:**

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

8.12. The new dwelling would be single storey with roof accommodation in the form of front and rear dormers with rooflights and constructed in render with a tiled roof and would replicate the features prevalent within the surrounding area. The style and palette of materials would be in keeping with the locality. The barn hipped roof style is appropriate given the variety of roof forms within the area. Following amendments, the ridge height of the dwelling would sit below that of the immediate surrounding 2 storey dwellings, no's 29 Ridgeside Avenue to the west and 31 Mill Close to the north and would be comparable to no. 31 Ridgeside Avenue to the east. The dwelling would be set back approximately 4m from the Ridgeside Avenue frontage which would be comparable to no. 31 and in line with the detached garage of no. 29 to the west. The height, footprint and building line of the new dwelling would sit appropriately within its surroundings, where there is a variety of heights, orientation and building lines given the curvature of the road and differing land levels within the area.

8.13. There is no objection to the demolition of the side garage to the existing property of no. 31 Ridgeside Avenue. Whilst acknowledged that the side garage does provide for an aesthetic addition to the property its removal would not appreciably harm the appearance of the property to a significant degree.

**8.14. Standard of Accommodation:**

The new dwelling would have a gross internal floor space of approximately 118sqm which is in accordance with the governments Technical Housing Standards- Nationally described space standards which states that a 6 person, 3 bedroom, 2 storey property should have a minimum gross internal floor area of 102sqm. The bedrooms would meet the minimum national space standards for double bedrooms.

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

- 8.16. At ground floor level the kitchen, living and dining area would contain window openings which would be sufficient to provide light and outlook. All three bedrooms at ground and first floor levels would contain large windows to serve the rooms.
- 8.17. Policy HO5 requires the provision of private useable amenity space in new residential development, appropriate to the scale and character of the development. The rear garden proposed is considered sufficient for the proposed number of occupants of the dwelling. The new dwelling would consume a vast amount of rear garden amenity space for no. 31 Ridgeside Avenue, leaving this property with a small garden space to the rear and the existing front garden space. Given the small rear garden, future occupiers would likely use the front garden space as their main garden space, which without boundary treatment would not be private space. However, corner plot locations do generally have large front garden spaces, usually with low boundary treatment, which is expected of a corner plot dwelling. The existing dwelling would have use of a small rear garden space and the use of an open front garden, whilst not private, would not be so detrimental as to warrant refusal of the application, given the context of the site.
- 8.18. Policy HO13 requires all new residential dwellings to be built to Lifetime Homes standards whereby they can be adapted to meet people with disabilities without major structural alterations. The requirement to meet Lifetime Homes has now been superseded by the accessibility and wheelchair housing standards within the national Optional Technical Standards. Step-free access to the (new-build) dwelling appears to be achievable; therefore conditions will be attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations
- 8.19. 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.
- 8.20. Given the existing residential character of the property and surrounding area, it is not considered in principle that the provision of an additional residential unit would have a significant adverse impact upon the amenities of neighbouring properties.
- 8.21. The proposed dwelling would sit approximately 2.5m from the adjacent dwelling to the east no. 31 Ridgeside Avenue. This property features a window opening on the south west side elevation facing the new dwelling which currently serves the garage. This garage would be removed as part of the current application. If a window opening was introduced, this window would suffer loss of outlook and light from the boundary fence in close proximity. However, this window would be a secondary window which serves a lounge, of which an adequate amount of light and outlook is gained from the large front facing window. Given the

orientation of the property the rear windows would not be impacted by the development in terms of overshadowing, loss of light or loss of privacy.

8.22. The dwelling would be sited approximately 13m from no. 29 to the west and 15m from no. 31 Mill Close to the north. These distances would be sufficient to ensure that the development would not impact these properties in terms of overshadowing, loss of light or loss of outlook. The dwelling would be in close proximity to the garden space of no. 29 to the west, however the dwelling would be sited adjacent a detached single storey garage and no.29 would have access to a large garden space. It is therefore not considered that the proposed dwelling would have an adverse impact on the garden space of this property in terms of overshadowing, an oppressive impact, or result in harm to the outlook from the garden.

8.23. There are no window openings proposed to the first floor side elevations. The first floor rear dormer window serving a bathroom is proposed to be obscure glazed which will be secured via condition. Views afforded from the rear rooflights would not be obtrusive given their positioning. The ground floor fenestration to the side and rear elevation would face adequate boundary treatments which would ensure no loss of privacy would result. A condition will be attached to ensure the new boundary fence to separate the new dwelling and no. 31 is 2m high to protect neighbouring amenity.

**8.24. Sustainability:**

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

**8.25. Transport :**

The proposed development would result in an increase in trip generation, however this is unlikely to have a significant impact on the highway network.

8.26. The existing vehicular access on Ridgeway Avenue is proposed to be slightly amended to allow access for the new dwelling's proposed parking space. A condition can be attached to ensure the crossover is constructed prior to first occupation of the development.

8.27. The likely increase in parking demand caused by the proposal would not be enough to recommend refusal of the application. The site is not in a Controlled Parking Zone and the level of increased parking demand not significant. Off street parking is proposed in the form of 1 car parking space, in line with the maximum standards

8.28. No cycle parking is proposed for the new dwelling and the loss of the garage to the existing dwelling would mean that adequate cycle store provision would be lost. A condition can be attached requiring details of cycle storage for both dwellings.

8.29. The loss of the garage to the existing dwelling is acceptable as parking could be accommodated on the drive.

8.30. **Other matters :**

Objectors have raised concern highlighting that the block plan is incorrect in so far as the properties within the area are not detailed correctly, that the photographs within the Planning Statement do not show a true representation of the area and incorrect existing boundary treatment shown on the plans. Whilst noted, a site visit has been undertaken and these identified issues have not affected a full assessment of the application by the Local Planning Authority.

## **9. EQUALITIES**

9.1. Policy HO13 seeks access standards above normal Building Regulations. Conditions are attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.





# **ITEM J**

**23 Maldon Road, Brighton  
BH2018/02805  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



BH2018/02805 23 Maldon Road



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/02805</b>	<b><u>Ward:</u></b>	<b>Withdean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>23 Maldon Road Brighton BN1 5BD</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing bungalow &amp; erection of 2no three storey four bedroom dwellings (C3).</b>		
<b><u>Officer:</u></b>	James Kidger, tel: 292106	<b><u>Valid Date:</u></b>	07.09.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	02.11.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	John Whiting 14 Bates Road Brighton BN1 6PG		
<b><u>Applicant:</u></b>	Mr Jon Wright 6 South Avenue Brighton BN2 0BP		

## 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	1802/P/001		6 September 2018
Proposed Drawing	1802/P/002		6 September 2018
Proposed Drawing	1802/P/102		6 September 2018
Proposed Drawing	1802/P/103		6 September 2018
Proposed Drawing	1802/P/104		6 September 2018
Proposed Drawing	1802/P/105		6 September 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):
- samples of all brick and cladding to be used, including details of their treatment to protect against weathering
  - samples of the proposed roof covering,
  - samples of all hard surfacing materials

- d) details of the proposed window, door and balcony treatments
- e) samples of all other materials to be used externally

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

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

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 Maldon Road with Matlock Road and at the junction of and across Matlock Road (west) with Maldon 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. Prior to the first occupation of the development hereby permitted the applicant shall reinstate the redundant vehicle crossover fronting Maldon Road back to a footway by raising the existing kerb and footway.  
**Reason:** In the interests of highway safety and to comply with policies TR7 of the Brighton and Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
6. 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.
7. The development hereby permitted shall not be occupied until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.  
**Reason:** This condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.
8. 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.

9. 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.

10. 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.

11. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The 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) details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
- b) a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period; and
- c) details of all boundary treatments to include type, position, design, dimensions and materials.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

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

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

13. No extension, enlargement or other alteration of the dwellinghouses as provided for within Schedule 2, Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.  
**Reason:** The Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. 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). 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 3.
3. The applicant is advised that the proposed highways works should be carried out in accordance with the Council's current standards and specifications and under licence from the Streetworks team. The applicant should contact the Streetworks Team (permit.admin@brighton-hove.gov.uk or 01273 290729) at their earliest convenience to avoid any delay.
4. The applicant is advised that the scheme required to be submitted by Condition 7 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car free.



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 8 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. Planning permission is sought to demolish the existing single storey dwelling and to erect 2 semi-detached three storey dwellings.
- 2.2. The site is on the west side of Maldon Road, a residential street with predominantly Victorian terraces on the east side and a more varied frontage on the west.

## **3. RELEVANT HISTORY**

- 3.1. BH2017/02193 - front extension and loft conversion - approved 30th August 2017.

## **4. REPRESENTATIONS**

- 4.1. **Twelve (12)** representations have been received objecting to the proposed development for the following reasons:
  - Increase in traffic and parking demand;
  - Out of character;
  - Loss of light to neighbouring properties;
  - Housing density would be too high;
  - Overdevelopment;
  - Noise; and
  - Loss of garden area.
- 4.2. **One (1)** representation has been received from the RSPB, commenting on the proposed development as follows:
  - Suggested incorporation of swift nest bricks.

## 5. CONSULTATIONS

- 5.1. Private Sector Housing: No objection
- 5.2. **Planning Policy:** No objection
- 5.3. **Highway Authority:** No objection subject to recommended conditions relating to pedestrian crossing improvements, the reinstatement of a redundant vehicle crossover, details of secure cycle storage and the restriction of resident's parking permits.

## 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

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

TR7	Safe Development
TR14	Cycle access and parking

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

Supplementary Planning Guidance:  
SPD14 Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main planning considerations material to this application are the principle of development on the site, the standard of accommodation to be provided, the impact on the character of the area, the impact on the amenity of neighbouring properties and the impact on transport.
- 8.2. Principle of development  
The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this minimum housing requirement that the City's five year housing land supply position is assessed annually.
- 8.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).
- 8.4. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation, 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 proposed development would replace the existing dwelling with two new dwellings. The net increase of one dwelling would contribute towards the Council's housing target. Whilst there are no specific policy objections to new dwellings in this location, the acceptability or otherwise of the scheme is subject to the specifics of the area and a satisfactory design. This is discussed below.
- 8.6. Standard of accommodation  
The proposed dwellings would each mirror the internal layout of the other. Each would have four bedrooms and a potential occupancy of seven persons. The three main bedrooms would be well sized - all above 12 square metres - and

would have good outlook and natural lighting. The fourth bedroom, notwithstanding its potential use as a study, would be considerably cramped even for a single occupancy at under 6 square metres. However, this is not considered significantly harmful to the amenity of future occupiers given the good standard of the others.

8.7. The total floor area of each proposed dwelling would be in excess of 130 square metres - adequate for units of this scale - and the open-plan kitchen-diner and separate lounge would ensure sufficient circulation space.

8.8. The outdoor amenity space for each proposed dwelling would comprise a rear garden area in excess of 70 square metres. This is considered sufficient for the size of the dwellings and in accordance with policy HO5.

8.9. Character of the area

The existing single storey dwelling is set back considerably from the road with an area of front garden. To either side are three storey buildings directly fronting the road. As a result of this disparity in height and setting, the existing dwelling presents as a gap in the streetscape and is somewhat out of keeping with the urban grain in this location. In this context the replacement of the existing dwelling with a larger three storey building housing two semi-detached dwellings is considered acceptable.

8.10. The neighbouring buildings either side of the application site have flat roofs and late 20th century modern style fenestration. It is considered that the proposed houses would relate to these neighbouring buildings in terms of height and scale in the streetscape but will be designed as contemporary architecture. In form they will relate to local housing typologies as a mirrored pair of semi-detached houses with bay windows framing central entrances below small projecting balconies and canopies, features seen on houses nearby. Shallow pitched zinc sheet roofs with overhangs are proposed with brick facades, aluminium faced windows and zinc cladding, all carefully detailed to create a distinctive character and quality. Brick walls or close boarded fences would provide the boundary treatment. It is not considered that the proposed design and construction materials would be harmful to the character of the area.

8.11. Impact on neighbouring amenity

The mass of the proposed structure would be concentrated against that of the neighbouring buildings, and though it would be deeper than 21 Maldon Road to the south, the projection beyond the extent of no. 21 would be single storey only and the impact would be minor. At the north side there would be some loss of light to the south facing windows of no. 31, but these windows do not serve primary habitable rooms and the resulting harm is not considered substantial.

8.12. The proposed rear windows at first and second floor levels would look toward the rear gardens of properties fronting Dyke Road to the west. However, the distance involved - some 20m - and the screening provided by the trees and shrubs on the rear boundary of 310 Dyke Road would prevent significantly harmful overlooking.

### 8.13. Transport

The proposed development would result in the loss of the existing off road parking space and probable additional parking demand due to the net increase in units. It is therefore anticipated that the development would cause overspill parking on-street.

8.14. The site is located within Controlled Parking Zone E and the Highway Authority considers this zone to be over-capacity. In the absence of any parking survey proving otherwise, the Highway Authority considers that there would be insufficient spare capacity within the parking zone to accommodate the likely increase in demand resulting from the development and have recommended that future occupants should not be entitled to a parking permit. This can be secured by condition.

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

8.16. SPD14 states that a minimum of 1 cycle parking space is required for every residential unit with up to 2 beds and 2 for 3 plus beds and 1 space per 3 units for visitors after 4 units. For this development of 2 residential units with 4 beds the minimum cycle parking standard is 4 cycle parking spaces in total (4 for residential units and 0 visitor spaces). The applicant has offered to install a cycle shed (as opposed to a lower cycle store) at the rear of each proposed dwelling in their supporting evidence however this is not a convenient, policy compliant location and there is a lack of lighting and detail of alternative cycle parking is therefore recommended by condition.

### 8.17. Sustainability:

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

### 8.18. Summary

The proposed development would provide an additional unit of accommodation in the city and would generate some economic activity during construction work. The standard of accommodation and amenity space to be provided is considered acceptable and there would be no significant harm to the character of the area or to neighbouring amenity. The impact to the highway network can be managed by condition. The application is therefore recommended for approval.

## 9. EQUALITIES

9.1. Policy HO13 seeks access standards above normal Building Regulations. Conditions are attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations



# **ITEM K**

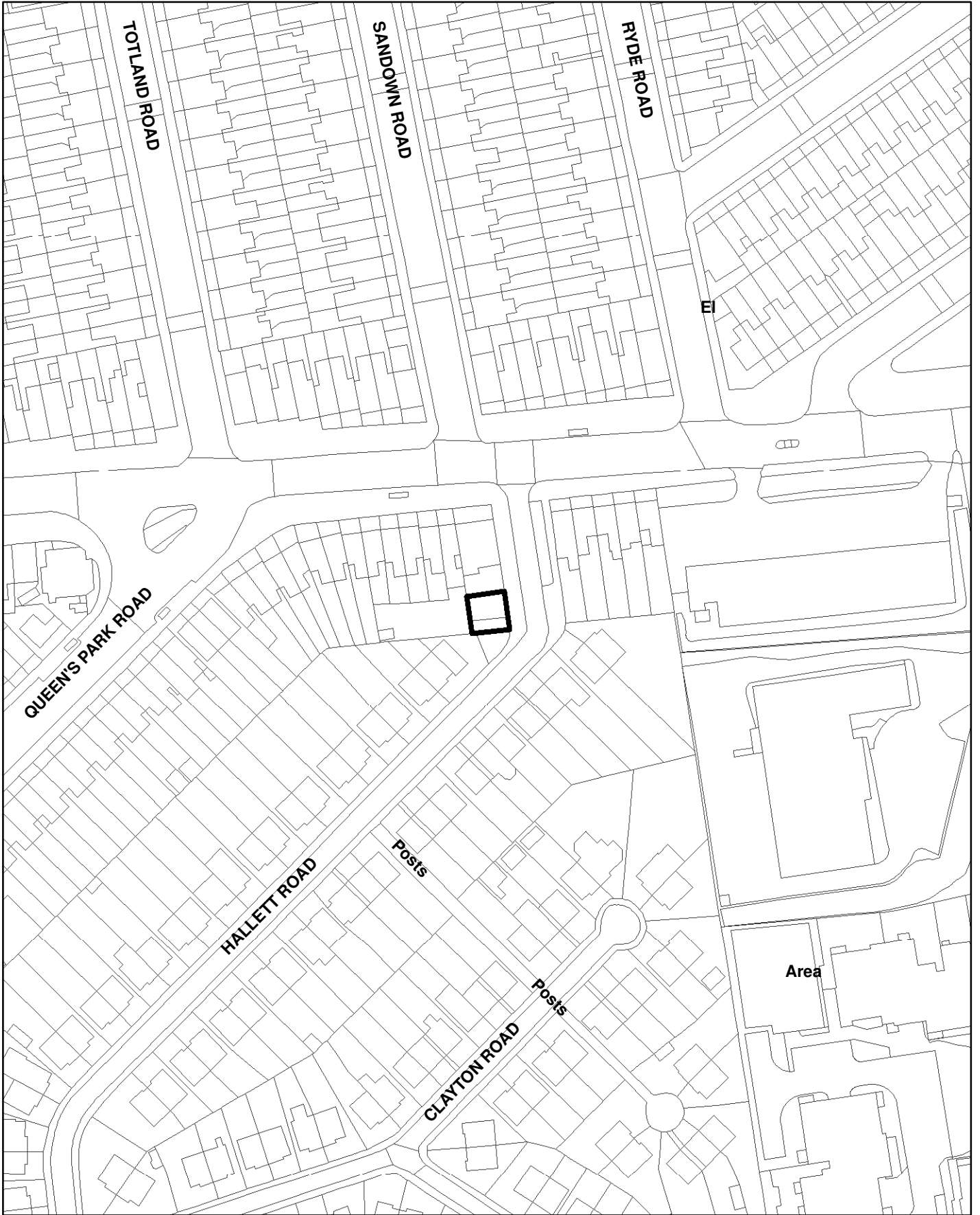
**238 Elm Grove, Brighton  
BH2018/02120  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**





BH2018/02120 238 Elm Grove



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2018/02120</b>	<b><u>Ward:</u></b>	<b>Hanover And Elm Grove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>238 Elm Grove Brighton BN2 3DA</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing garage &amp; erection of 1no. one bedroom single storey dwelling (C3).</b>		
<b><u>Officer:</u></b>	Michael Tucker, 292359	tel:	<b><u>Valid Date:</u></b> 02.07.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	27.08.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Domain Studio One 20 Regent Street Brighton BN1 1UX		
<b><u>Applicant:</u></b>	Brighton Builds LLP C/o Domain Studio One 20 Regent Street Brighton BN1 1UX		

Councillor Dick Page has requested this application is determined by the Planning Committee.

## 1. RECOMMENDATION

1.1. That had the Council determined the application prior to an appeal being lodged, the council **Would Have Granted** planning permission subject to the following Conditions and Informatives:

### Conditions:

- 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>
Proposed Drawing	-	-	29 June 2018

- 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.
- 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):
  - samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)

- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples of all hard surfacing materials
- d) details of the proposed window, door and balcony treatments
- e) samples of all other materials to be used externally

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

**Reason:** To ensure a satisfactory appearance to the development and to comply with policy QD14 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 a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

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

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

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

6. Prior to first occupation of the development hereby permitted a plan detailing the positions, height, design, materials and type of all existing and proposed boundary treatments shall have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.

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

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

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

9. The development hereby permitted shall not be occupied until the dwelling hereby permitted has been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and shall be retained in compliance with such requirement thereafter. Evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

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

10. The residential unit hereby approved shall not be occupied until the 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.

11. The residential unit hereby approved shall not be occupied until the 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.

12. Prior to the occupation of the development the applicant shall reinstate the redundant existing vehicle crossover on Hallett Road back to footway by raising the existing kerb and footway. The works shall be completed prior to the occupation of the development hereby permitted and shall thereafter be retained.

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

13. No works pursuant to this permission shall commence 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.
- 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.

14. The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition 13 that any remediation scheme required and approved under the provisions of condition 13c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority 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.

**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.

Informatives:

- 1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
- 2. The applicant is advised that the scheme required to be submitted by Condition 8 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic

Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.

3. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
4. The water efficiency standard required under condition 11 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg washing machine; or (b) using the water efficiency calculation methodology detailed in the AD Part G Appendix A.
5. The applicant is advised that the proposed highways works should be carried out in accordance with the Council's current standards and specifications and under licence from the Streetworks team. The applicant should contact the Streetworks Team (permit.admin@brighton-hove.gov.uk or telephone 01273 290729) at their earliest convenience to avoid any delay.

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

- 2.1. The application relates to a two-storey Victorian end-of-terrace property, with a detached single garage at the southern (rear) end of the site. Planning permission is sought to demolish this garage and erect a single-storey one-bedroom dwelling, fronting onto Hallett Road.

## **3. RELEVANT HISTORY**

- 3.1. BH2017/01114 - Demolition of existing garage & erection of a new 2 bedroom detached house over ground & lower ground floors. Appeal on non-determination dismissed 09/05/2018 on the grounds that the proposal would not result in good living conditions for the occupiers of the property.
- 3.2. BH2017/00918 - Application for approval of details reserved by condition 3 of application BH2016/01000. Approved 11/09/2017
- 3.3. BH2016/01000 - Conversion of existing house to form 2 No. one bedroom and 2 No two bedroom flats (C3) with associated alterations including erection of a part one part two storey rear extension and installation of rooflights. Approved 09/08/2016

- 3.4. BH2016/00999 - Demolition of existing outbuildings and erection a two storey two bedroom detached dwelling (C3) accessed from Hallett Road. Refused 07/06/2016
- 3.5. BH2014/03825 - Erection of part two, part three storey rear extension and associated alterations to facilitate conversion of single dwelling house to 5 no self - contained flats. Refused 30/03/2015, appeal dismissed 29/9/2015

#### **4. REPRESENTATIONS**

- 4.1. **One (1)** letter has been received, objecting to the proposal for the following reasons:
  - Additional traffic
  - Detrimental effect on property value
  - Inappropriate height of development
  - Noise
  - Overdevelopment
  - Overshadowing
  - Poor design
  - Restriction of view
  - Too close to the boundary
- 4.2. **Councillor Dick Page** objects to the proposal. A copy of the objection is attached to this report.

#### **5. CONSULTATIONS**

- 5.1. **Fire Brigade:** No comment received
- 5.2. **Environmental Health:** No comment received
- 5.3. Sustainable Transport: No objection  
Recommended approval subject to securing car free housing, the reinstatement of the redundant vehicle crossover and satisfactory cycle parking facilities 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
CP8	Sustainable buildings
CP9	Sustainable transport
CP12	Urban design

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

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

#### Supplementary Planning Documents:

SPD14	Parking Standards
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## 8. CONSIDERATIONS & ASSESSMENT

8.1. The main considerations in the determination of this application relate to the principle of the development, the design and appearance of the proposed dwelling and the impact of the proposal on neighbouring amenity. The standard of accommodation the proposed dwelling would provide, sustainability and transport are also material considerations.

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

8.3. The Council's most recent housing land supply position is published in the SHLAA Update 2018 (February 2019). However, the figures presented in the SHLAA are subject to the results of the Government's Housing Delivery Test which has not yet been published. The SHLAA shows a marginal five year housing surplus (5.1 years supply) if a 5% buffer is applied. However, the NPPF indicates that if the Housing Delivery Test shows that delivery over the past three years (2015-2018) has been under 85% of the adjusted City Plan housing requirement, then a 20% buffer should be applied to the five year supply figures. This would result in a five year housing shortfall (4.5 years supply).

8.4. The council's own informal assessment is that housing delivery over the 2015-2018 period has been less than 80% of the required City Plan figure. Therefore, for planning policy purposes, it should be assumed that the council cannot demonstrate a five year housing land supply. In that situation, 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. Principle of Development:**

The application site is located in a predominantly residential area. Considering the housing need of the city the intensification of such sites is generally acceptable in principle, however the suitability of a particular scheme depends on an assessment of the specific impact and harm it would cause.

8.6. The principle of the demolition of the existing garage and the erection of a residential dwelling has been established as acceptable following the Inspector's findings during the appeal of the previous application (BH2017/01114). Although this appeal was dismissed, this was due to concerns over the standard of accommodation. The Inspector found that a dwelling on the site would be in keeping with the character and appearance of the area and would be acceptable in principle.

8.7. The current application differs from the previous application in the following ways:

- Basement level removed
- Number of bedrooms reduced from two to one
- Rear amenity space made level

8.8. The current application would have a very similar street frontage and appearance to the previous application, which the Inspector found to be acceptable as it would conform with the tight urban grain of the area.

**8.9. Design and Appearance:**

The ridge height of the proposed building would exceed the height of the existing garage by approx. 0.6m, and would be approx. 2.2m greater in width. Nevertheless, the proposal would replicate the ancillary nature of the existing building due to the choice of materials (dark stained timber) and single-storey height.

8.10. The Inspector for the previous appeal found that a building of this design and scale, on this site, would contribute positively to the sense of place and be in keeping with the character and appearance of the area. As such, the design and appearance of the proposed dwelling is considered not to warrant refusal of the application.

**8.11. Impact on Amenity:**

Given the single storey nature and separation of the proposed dwelling from nearby properties, it is unlikely that the proposal would result in any significant overshadowing, loss of light or overbearing impact on neighbouring uses.

8.12. The glazed doors on the north elevation would not lead to overlooking of neighbouring properties, nor would the windows on the west elevation facing east. Similarly, the rooflights on the south elevation, due to their angled and elevated positioning, would not cause overlooking of the properties opposite on Hallett Road.

8.13. While there would be additional noise disturbance resulting from the creation of a new residential use, this would be unlikely to have a significant net impact on the amenity of neighbouring properties. This is due to the separation between the proposed dwelling and the neighbouring buildings and the level of background noise resulting from the urban location of the site.

**8.14. Standard of Accommodation:**

The number of bedrooms contained in the proposed dwelling has been reduced since the previous applications. The current scheme proposes a single bedroom of approx. 13sqm which would therefore be classed as a double room. The dwelling as a whole would have a floorspace of approx. 50.1sqm, which meets the minimum standard set out in the Government's Technical Space Standards for a one-bedroom single-storey dwelling. Although not adopted policy, these standards do provide a useful indication of the suitability of a proposed dwelling. The bedroom and the open-plan kitchen/living area would both benefit from natural light and outlook and allow adequate space for furniture and circulation.

8.15. Approx. 21sqm of amenity space would be provided for future occupiers of the dwelling, in the form of a square garden area at the north-west of the plot. In previous applications half of this area sloped downwards to provide light to the basement level bedrooms, however in the current scheme no basement level is proposed and the entirety of the garden area would be flat and easily useable. It is therefore considered that the amount of amenity space proposed is commensurate to the scale of proposed dwelling and would not have a detrimental impact on the amenity of future occupiers.

8.16. Policy HO13 seeks access standards above normal Building Regulations. Conditions are attached to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

**8.17. Sustainable Transport:**

The proposal is unlikely to lead to a significant uplift in trip generation or significant impact on the transport network.

8.18. No car parking is proposed, and the site is located in CPZ S, which has an average permit uptake rate of 84%. In lieu of any supporting evidence provided by the applicant to demonstrate capacity, it is considered appropriate to recommend a suitably worded condition to ensure the development remains car free, so as not to lead to a harmful impact on on-street car parking.

8.19. Although some cycle parking is proposed, it is unclear whether it would be compliant with the requirements of SPD14. For this reason, a suitably worded condition will be attached to secure further details.

**8.20. Sustainability:**

Policy CP8 of the Brighton and Hove City Plan Part One seeks to secure water and energy efficiency in new residential units. A suitably worded condition will be attached to secure these standards.

**8.21. Other Considerations:**

The Local Planning Authority has previously been notified that the site is potentially contaminated. As such a phased contaminated land assessment will be secured by a suitably worded condition.

**9. EQUALITIES**

9.1. Policy HO13 seeks access standards above normal Building Regulations. A condition is recommended to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

Cllr. Dick Page

BH2018/02120 - 238 Elm Grove

13/04/2017:

The landlord is asking me to support a revised plan for a sunken house, taking up most of the garden at this address. An application for a higher version was withdrawn last summer.

Although he says it is now not much higher than the existing garage, it will be an overlarge development, too close to the immediate neighbouring property in Hallett Road.

I successfully supported his application for a considerable extension on the main house, against officer recommendation, at Committee on 3.8.16. Any further development here appears overlarge and excessive.

Please inform me should officers support this application, as I would ask for Committee once again to then have to make the decision.

16/07/2018:

I am somewhat surprised and disappointed that having failed with a similar proposal last year (see emails below), we all have to spend time on another application.

As before please register my objection - that this is an overlarge development too near the neighbouring house in Hallett Road.

And please refer it to Planning Committee if officers are minded to accept, informing me of the date.



# **ITEM L**

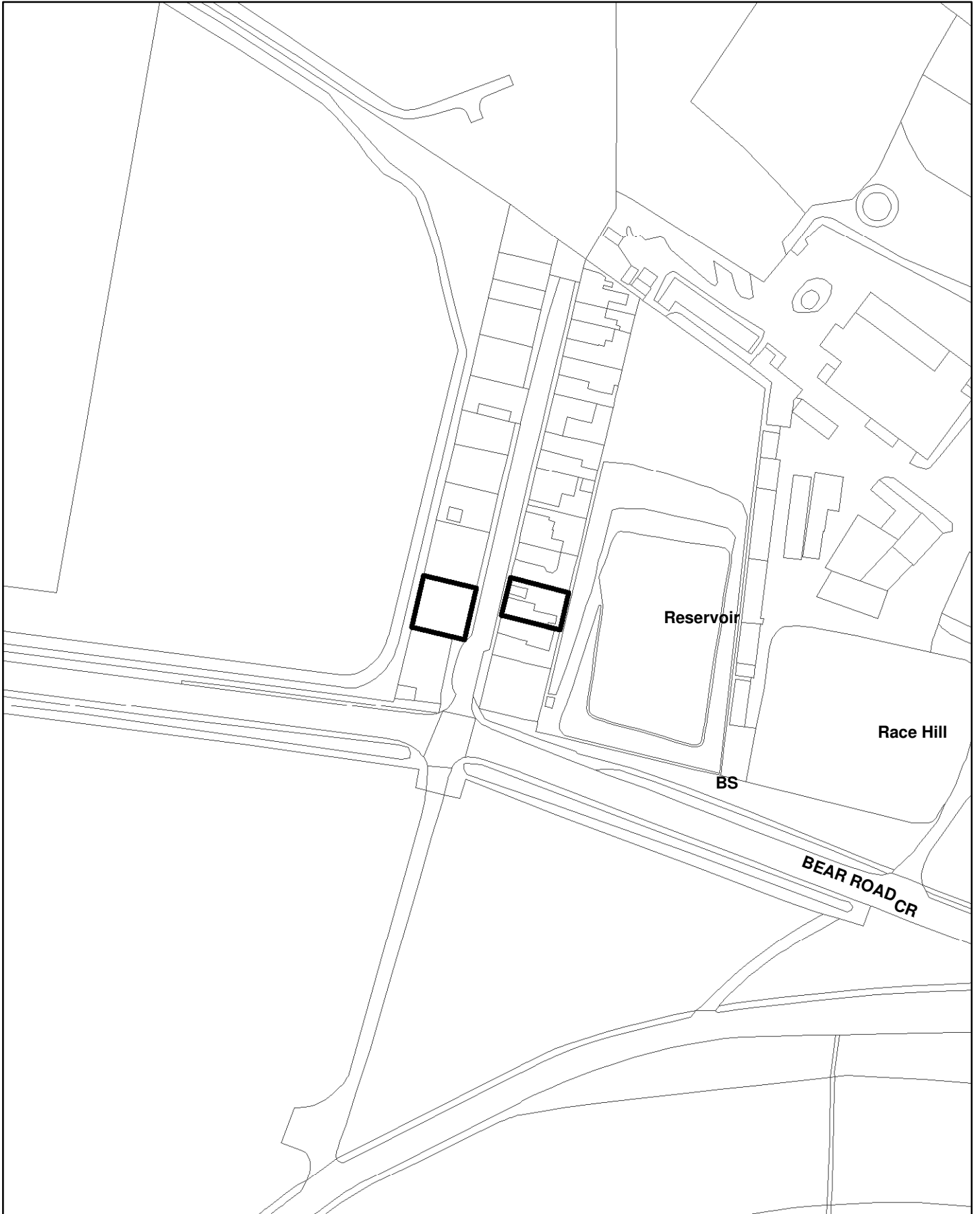
**2 Belle Vue Cottages, Brighton  
BH2018/03479  
Householder Planning Consent**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**





# BH2018/03479 2 Belle Vue Cottages



Scale: 1:1,250



<b><u>No:</u></b>	<b>BH2018/03479</b>	<b><u>Ward:</u></b>	<b>Moulsecoomb And Bevendean Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>2 Belle Vue Cottages Brighton BN2 6AA</b>		
<b><u>Proposal:</u></b>	<b>Erection of two storey side extension, single storey rear extension, revised fenestration, roof extension incorporating rear dormer and front and rear rooflights.</b>		
<b><u>Officer:</u></b>	Michael Tucker, 292359	tel: <b><u>Valid Date:</u></b>	16.11.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	11.01.2019
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Mr Andrew Butt 15 Shirley Street Hove BN3 3WJ		
<b><u>Applicant:</u></b>	Mr Mark Steel C/o Mr Andrew Butt 15 Shirley Street Hove BN3 3WJ		

## 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	001	A	12 November 2018
Proposed Drawing	20	F	25 January 2019
Proposed Drawing	21	F	25 January 2019
Proposed Drawing	22	F	25 January 2019
Proposed Drawing	23	E	12 November 2018
Proposed Drawing	24	F	25 January 2019
Proposed Drawing	25	-	16 November 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.

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 two-storey, semi-detached property on the northern side of Belle Vue Cottages. Planning permission is sought to erect a two-storey pitched-roof side extension, a single-storey rear extension, a rear dormer and to insert rooflights onto the front and rear elevations.

## **3. RELEVANT HISTORY**

- 3.1. BH2018/02716 - Erection of two storey side and rear extension, roof extension incorporating rear dormer and front rooflights. Refused 25/10/2018 for the following reasons:
  - 3.2. The proposed side extension would, by virtue of its scale, not appear as a subservient addition to the host building and therefore fails to deliver a high quality of design contrary to policies QD14 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.
  - 3.3. The proposed rear roof dormer would, by virtue of its overall scale, give the appearance of an extra storey, relating poorly to the host building. The proposal therefore fails to deliver a high quality of design contrary to policies QD14 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.
  - 3.4. The proposed two-storey rear extension would, by reason of overbearing impact and loss of daylight, harm the amenity of neighbouring properties contrary to Policies QD14 and QD27 of the Brighton & Hove Local Plan.

## **4. REPRESENTATIONS**

- 4.1. **Six (6)** letters have been received, objecting to the proposal for the following reasons:
  - Inappropriate height of development
  - Overdevelopment
  - Overshadowing
  - Poor design
  - Restriction of view
  - Too close to boundary

- Additional traffic
- Noise
- Residential amenity

## **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. RELEVANT 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):

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 external works and the impact of the proposal on neighbouring amenity.

**8.2. Design and Appearance:**

The proposal has been amended and significantly reduced in scale and massing since the previous application (BH2018/02716), as well as over the course of the current application. The dormer window no longer extends the full extended width of the rear roofslope and the rear extension no longer extends above the existing eaves level. The rooflights on the front elevation have been reduced in number and realigned so as to better reflect the pattern of fenestration on the front façade.

8.3. The proposed two-storey side extension would have a width of approx. 3.1m, exceeding half of the 4.7m width of the existing building. Nevertheless, a subordinate appearance would be achieved due to the ridge height of the side extension being approx. 0.5m lower than, and the side extension being set back approx. 1m from the front elevation of, the existing building. The roof would match the pitch of the existing roof.

8.4. A distance of approx. 1.6m would separate the northern elevation of the proposed side extension and the boundary of the property, with a further 4.3m between the boundary and the neighbouring property at no3. It is therefore considered that the proposal would not lead to the loss of the open aspect of the neighbourhood.

8.5. The proposed single-storey rear extension would have a width of approx. 4.7m, a height of approx. 2.4m and a depth of 5.1m (2.1m from the rear of the existing outrigger). The footprint of the proposed extension is currently partly occupied by an existing pitched-roof single storey element at the rear of the existing two-storey outrigger, with a maximum height of 2.7, an eaves height of 1.6m and a depth of 2m. A set of bifolding doors would be installed at ground floor level on the rear of the side extension and the side of the rear extension. These doors would not be visible from the street.

8.6. The proposed rear dormer would extend the width of the existing rear roofslope. Although box dormers of this design are contrary to the guidance set out in SPD12, the proposed dormer would be constructible under permitted development legislation, giving the applicant a viable fall-back option. Furthermore, the rear dormer would not be visible from the street and so would have a minimal impact on the character and appearance of the area. Finally, dormers are already a common feature on Belle Vue Cottages, with the adjoining properties at no1 and no3 both being examples with front and rear dormers. For these reasons, on balance the harm caused by the proposed dormer is considered not to be significant enough to warrant refusal of the application based on the dormer alone.

8.7. The amended scheme would include a total of three rooflights, two on the front elevation and one on the rear. All would align with the pattern of fenestration on

the lower storeys and so are considered not to harm the appearance of the building.

- 8.8. Although SPD12 states that the proposed 'cabrio'-style rooflight on the front elevation would generally not be permitted, in this instance the visual impact compared to a standard rooflight is considered not to be significant, and as such is considered not to warrant refusal of the application.
- 8.9. Overall, the proposed extensions are considered suitable additions to the building that would not harm its appearance or that of the wider area, in accordance with policy QD14 of the Brighton & Hove Local Plan.

#### **8.10. Impact on Amenity:**

Although the proposed side extension would be located to the south of the neighbouring property at no3, the reduction in ridge height and spacing between the properties means that there would be unlikely to be an increase in overshadowing as a result of the proposal. No windows existing on the southern face of no3, and no windows are proposed on the north elevation of the proposed side extension, meaning that no mutual or perceived overlooking will be created.

- 8.11. Due to their location on the ground floor, the bifolding doors on the rear extension would not create overlooking towards no3. The existing boundary wall would further block sightlines from the rear extension towards the neighbouring property. The proposed rear extension would not be significantly higher or deeper on the boundary with no1 than the existing building and so would not result in overshadowing or an overbearing impact on the adjoining property.
- 8.12. The proposed dormer would be unlikely to result in overlooking towards neighbouring properties. No1 has an existing rear dormer, and the existing outriggers would obstruct lines of sight from the dormer into the rear garden of no1.
- 8.13. There are no properties opposite the application site and so the 'cabrio'-style rooflight proposed on the front elevation would not create harmful overlooking.
- 8.14. The two Juliet balconies on the first floor of the rear elevation would not create additional sightlines towards neighbouring properties and amenity spaces that are not already afforded by the existing first floor window.
- 8.15. Overall the proposal is considered not to create significant harm to neighbouring amenity. The impact on the adjacent properties at no1 and no3 Belle Vue Cottages has been fully considered in terms of daylight, sunlight, outlook and privacy following a site visit and no significant harm has been identified.

## **9. EQUALITIES**

- 9.1. None identified.





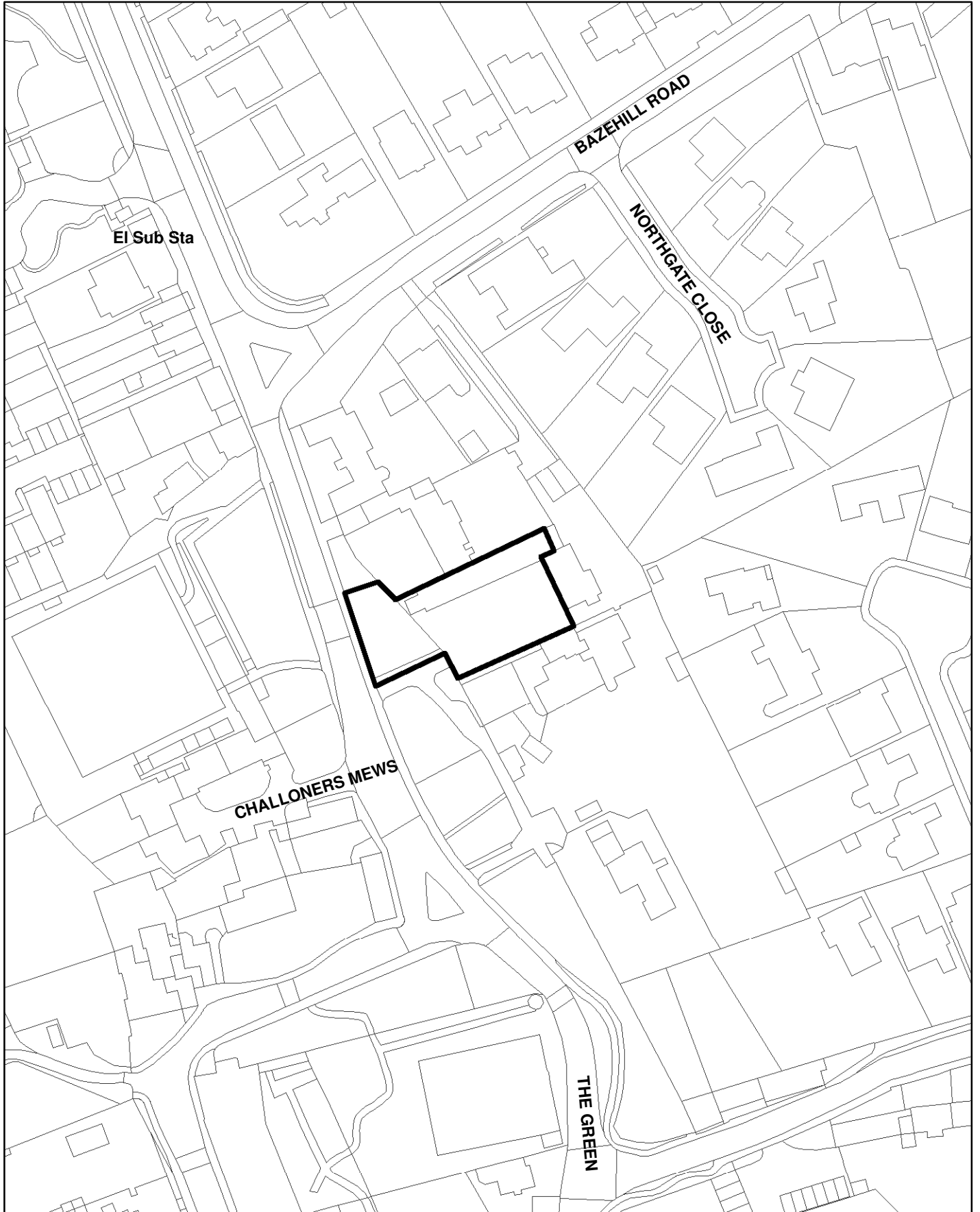
# **ITEM M**

**Lanterns, The Green, Rottingdean  
BH2018/03198  
Householder Planning Consent**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



# BH2018/03198 Lanterns, The Green



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2018/03198</b>	<b><u>Ward:</u></b>	<b>Rottingdean Coastal Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>Lanterns The Green Rottingdean Brighton BN2 7DD</b>		
<b><u>Proposal:</u></b>	<b>Conversion of attic with dormers to front roof slope and roof lights to rear.</b>		
<b><u>Officer:</u></b>	Sam Bethwaite, 292138	tel:	<b><u>Valid Date:</u></b> 23.10.2018
<b><u>Con Area:</u></b>	Rottingdean	<b><u>Expiry Date:</u></b>	18.12.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Building Technical Services 64 Ellerslie Lane Little Common Bexhill-on-Sea TN39 4LJ England		
<b><u>Applicant:</u></b>	Mr N James Lanterns, The Green Rottingdean Brighton BN2 7DD		

Councillor Mary Mears has requested this application is determined by the Planning Committee.

## 1. RECOMMENDATION

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

1. The proposed front dormers disrupt the long uninterrupted clay tile roof of Lanterns. This is a key architectural feature and a clear reminder of the agricultural heritage of the site and wider historic farm complex. The proposed dormers fail to preserve and enhance the character of the Rottingdean Conservation Area and accordingly are contrary to policies QD14 and HE6 of the Brighton and Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

### Informatives:

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan			18 October 2018
Block Plan			18 October 2018
Proposed Drawing	02-0918-03		18 October 2018

Proposed Drawing	02-0918-04		18 October 2018
Proposed Drawing	02-0918-05		18 October 2018

## 2. RELEVANT HISTORY

- 2.1. BH2018/00602 - Roof alterations including 3no front dormers & 3no rear rooflights. - Refused 26.04.2018.
- 2.2. Reason for refusal - The proposed front dormers are an unsympathetic and incongruous feature that would be out of keeping with the traditional character of the existing house and would detract from the character and appearance of the wider Rottingdean Conservation Area. Accordingly they are considered contrary to policies QD14 and HE6 of the Brighton and Hove Local Plan.
- 2.3. This decision was then appealed under reference APP/Q1445/D/18/3202580 and the appeal was dismissed 08.08.2018.

## 3. REPRESENTATIONS

- 3.1. **Seven (7)** letters has been received, supporting the proposed development on the following grounds: Good design, works required to accommodate family, in keeping with surroundings, not visible from the road, dormers represent a better design solution than rooflights, roof has already been disrupted by chimney, the applicants have been flexible in their approach by reducing the proposal.
- 3.2. **One (1)** letter has been received, objecting to the proposed development on the following grounds: Impact on the group value of the historic farm buildings and the uninterrupted roof.
- 3.3. **One (1)** letter has been received, commenting on the proposed development on the following grounds: reduction in dormers welcomed, should be finished in dark colours and tiles to match in order to be discreet.
- 3.4. **Councillor Mary Mears** supports the proposal. A copy of the support is attached to this report.

## 4. CONSULTATIONS

- 4.1. Heritage - Objection  
20.11.2018

Lanterns contributes positively to the character and appearance of the conservation area. The insertion of two dormer windows into its roof is considered to be clearly harmful to the character of this historic former farm building and its wider group value. The existing long uninterrupted clay tiled roof is a key feature of the building's significance and is a clear reminder of its agricultural origin as part of The Farms character area of Rottingdean. The adjoining and adjacent buildings which make up this former farm complex retain

their similar original roofs uninterrupted. The proposed western-most dormer in particular would be clearly visible from public view (certainly in winter) and from the shared driveway entrance to Lanterns and Challoners. It would be an incongruous feature in the roofscape. The proposal would therefore harm both the appearance and the character of the Rottingdean conservation area and, to a lesser degree, would harm the setting of the listed Challoners and Little Challoners, with which Lanterns likely has a historic relationship.

4.2. The harm is clear but is 'less than substantial' under the terms of the NPPF. There are no heritage benefits that may be weighed against that harm. The Inspector in the recent appeal decision against refusal of three larger dormers concurred with the council's assessment of harm but noted that a revised scheme may cause less harm and that a different balancing judgement may therefore be reached (under paragraph 196 of the revised NPPF). However, it is considered that this proposal would cause only marginally less harm than the appealed scheme and that any dormer windows would cause harm here for the reasons outlined above. Paragraph 193 of the NPPF makes clear that great weight must be given to the conservation of heritage assets "irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

4.3. 07.12.2018

After receipt of this comment additional information was provided in the form of a letter from the Department of the Environment dated 21.03.1989. This stated that the properties of Pineglade and Lanterns had been sufficiently altered from their original form and no longer merited Listed status. With specific reference to Lanterns the letter states the property has renewed brickwork, heightened or re-built eaves, an altered roofline and a chimney.

4.4. 20.12.2018

In response to this additional information Heritage commented as follows.

4.5. It is already known that Lanterns is not a listed building and that it has been much altered from its original agricultural appearance. The fact that it was once Listed but later de-listed is interesting but not relevant to the considerations in this case.

4.6. The building is still within the Rottingdean Conservation Area and contributes positively to the character and appearance of the conservation area. The Heritage comments note that the long, uninterrupted tiled roof is its most significant and visible feature and this is the least altered element of the building. Significant alteration to its roof would harm its character and therefore harm the conservation area.

## 5. **RELEVANT POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
CP15 Heritage

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

QD14 Extensions and alterations

QD27 Protection of Amenity

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

## **6. CONSIDERATIONS & ASSESSMENT**

- 6.1. The site is a single dwelling that is part of a complex of converted farm buildings. Located to the North of The Green it is within the Rottingdean Conservation Area and is covered by the Rottingdean Article 4 Direction, which removes many of a single dwellings permitted development rights. The site is adjacent to Grade II Listed properties - Challoners & Little Challoners, and is connected to the Locally Listed property of Court Barn. The proposal is for two dormers to the front elevation and three rooflights to the rear.
- 6.2. This application is the resubmission of a previous scheme (ref BH2018/00602) that proposed three larger dormers to the front roof slope and three rear rooflights. This application was refused as a result of the disruption caused to the front roof slope by the proposed dormers. This decision was appealed and the appeal was dismissed. The Inspector concluded that the dormers did not preserve or enhance the character and appearance of the Rottingdean Conservation Area and as a result of this were contrary to policies QD14 and HE6 of the Brighton and Hove Local Plan.
- 6.3. The main considerations in the determination of this application relate to the impact of the proposed development on the appearance and character of the building, the wider streetscene and the amenities of adjacent occupiers.
- 6.4. Policy QD14 of the Brighton & Hove Local Plan states that planning permission for extensions or alterations to existing buildings, including the formation of rooms in the roof, will only be granted if the proposed development:
  - a) is well designed, sited and detailed in relation to the property to be extended, adjoining properties and to the surrounding area;
  - b) would not result in significant noise disturbance or loss of privacy, outlook, daylight/sunlight or amenity to neighbouring properties;
  - c) takes account of the existing space around buildings and the character of the area and an appropriate gap is retained between the extension and the joint boundary to prevent a terracing effect where this would be detrimental to the character of the area; and
  - d) uses materials sympathetic to the parent building.
- 6.5. In considering whether to grant planning permission for extensions to residential and commercial properties, account will be taken of sunlight and daylight



factors, together with orientation, slope, overall height relationships, existing boundary treatment and how overbearing the proposal will be.

6.6. 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.

6.7. Design and Appearance:

The key design issue in this development is the disruption of the roof form by the proposed dormers and its impact on the appearance of the building and wider Rottingdean Conservation Area. The roof form of this building is the most prominent historic feature and a clear reference to its agricultural heritage. This has group value in connection with the other buildings that originally formed the farm complex and have long uninterrupted clay tile roofs.

6.8. The Inspector for the appeal on the previous application indicated that a flexible approach should be taken to development in conservation areas where it maintains the heritage characteristics of a property. The reduced scheme proposed under this application causes less disruption. Notwithstanding this it is still considered to cause harm to the heritage characteristics of the site by disrupting the roof form. This level of harm is considered to be contrary to policies QD14 and HE6 of the Brighton and Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One and warrants refusal.

6.9. In regard to the wider Rottingdean Conservation Area the main front roof slope of Lanterns is visible from the street. The level of visibility is affected by the foliage of the deciduous trees on the land between the public highway and the subject property (these are covered by a tree protection order). The Inspector concluded that the dormers on the previous application would not preserve or enhance the character of the conservation area. The dormers proposed on this application, although reduced in number and width, have a broadly similar side profile. As a result of this they have a comparable impact on the appearance of the property when viewed from the public realm. Accordingly they are still not considered to preserve or enhance the character of the conservation area contrary to policies QD14 and HE6 of the Brighton and Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

6.10. The proposed rear rooflights are an appropriate scale and positioned away from the ridge and sides of the roof. They do not relate well to the windows below but may look cluttered if they did line up with the existing rear windows. They do not alter the existing roof form and are not highly visible from the public realm. They are not considered to harm the host building or wider Rottingdean Conservation Area in design terms.

6.11. Impact on Neighbouring Amenity

The impact on the adjacent properties at Challoners & Little Challoners has been fully considered in terms of daylight, sunlight, outlook and privacy following a site visit and no significant harm has been identified. The proposed

dormers increase the potential overlooking by raising the vantage point of windows along the South elevation of Lanterns that faces Challoners & Little Challoners. The distance between the proposed dormers and the North boundary of Challoners & Little Challoners is in excess of 19m. This distance is considered to mitigate the potential overlooking to a level insufficient to warrant refusal.

6.12. The impact on the adjacent properties at Pineglade and Court Barn has been fully considered in terms of daylight, sunlight, outlook and privacy following a site visit and no significant harm has been identified.

## **7. EQUALITIES**

7.1. None identified

Cllr. Mary Mears

BH2018/03198 Lanterns, The Green

As a ward councillor for Rottingdean Coastal, I am supporting the above planning application for the following reasons:

The Appeal Inspector although refusing the first application on appeal. Made reference in point 9 saying if a new/revised application is submitted there should be a more flexible approach to dormers.

In his final points the inspector says: in this regard I note that the Conservation Area and building of local interest section of the councils design guide for extensions and alterations SPD 2013 indicates a flexible approach that seeks to accommodate development including roof extensions in conservation area, whilst maintaining the heritage credentials of buildings.

In my opinion this application has address previous concerns and has reduced the size and the number of dormers from 3 to 2 .

Therefore this application will not affect the street scene as the property is set back and the dormers will not be seen from the road, the property faces south and concealed by trees.

The council has raised concerns that the property has an uninterrupted clay roof that dormers would destroy. Which is not the case according to a letter dated 21/3/ 1989 a from the Department of the Environment

agreeing the delisting of Lanterns in which English Heritage point out the roofline was altered and the house has been changed.

Should the decision be taken to refuse this application under delegated powers. I wish this planning application to go to the planning committee for decision and reserve my right to speak.



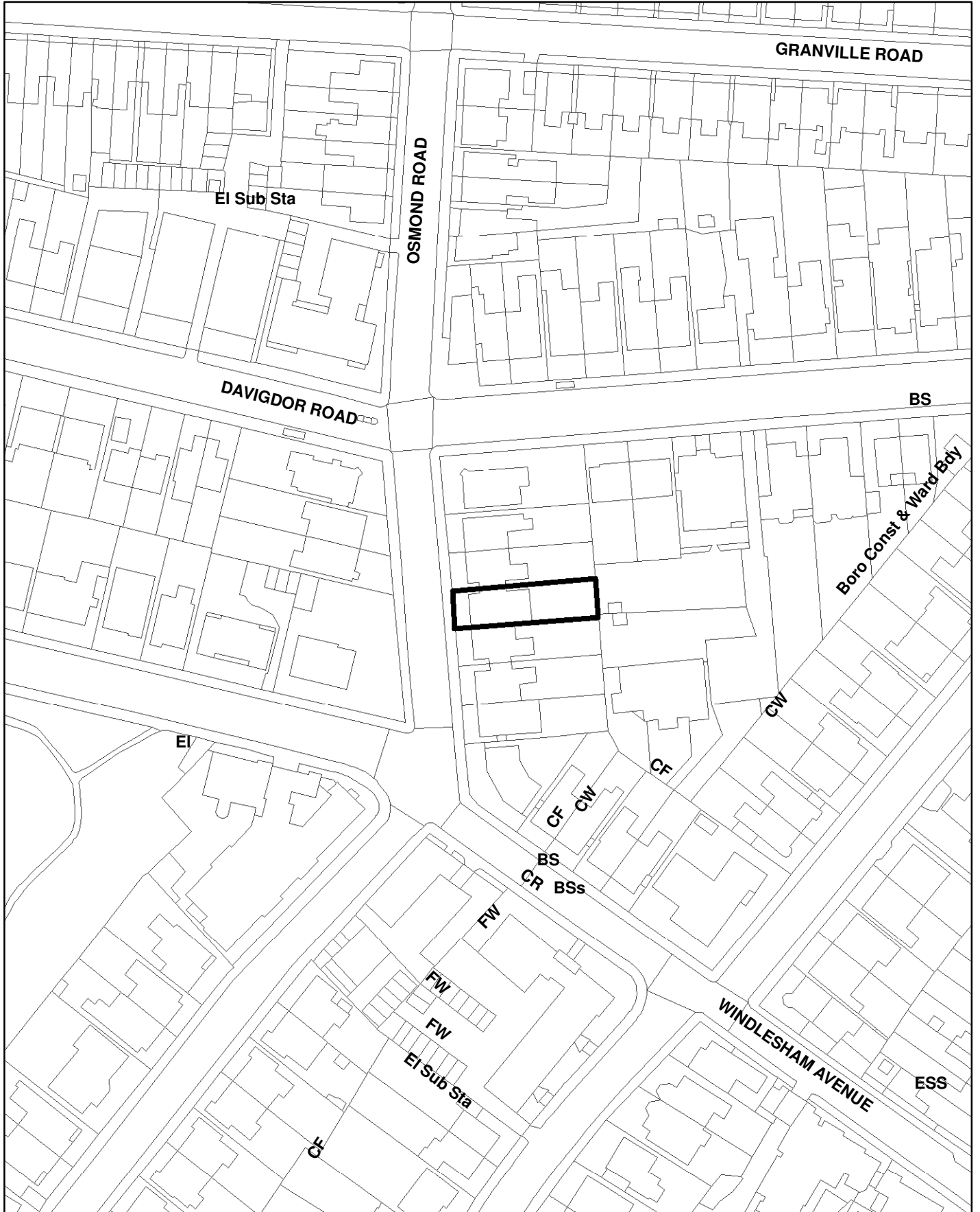
# **ITEM N**

**15 Osmond Gardens, Hove  
BH2018/01937  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



# BH2018/01937 15 Osmond Gardens, Brighton



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2018/01937</b>	<b><u>Ward:</u></b>	<b>Goldsmid Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>15 Osmond Gardens Osmond Road Hove BN3 1TE</b>		
<b><u>Proposal:</u></b>	<b>Change of Use from care home (C2) to 8no bedroom large house in multiple occupation. (Sui generis)</b>		
<b><u>Officer:</u></b>	<b>Sven Rufus, tel: 292454</b>	<b><u>Valid Date:</u></b>	<b>31.07.2018</b>
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	<b>25.09.2018</b>
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	<b>Mr Tony Standing 4 Coombe Road Steyning BN44 3LF</b>		
<b><u>Applicant:</u></b>	<b>Mr Kumarasamy Ramadas 15 Osmond Gardens Osmond Road Hove BN3 1TE</b>		

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	C901		14 June 2018
Location and block plan			14 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. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

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

4. The development hereby approved shall only be occupied by a maximum of nine persons.  
**Reason:** To ensure a satisfactory standard of accommodation for future occupiers and to comply with policy QD27 of the Brighton & Hove Local Plan.
5. The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplan received on 8th June 2018 and shall be retained as such thereafter. The room annotated as communal shall be retained as communal space and shall not be used as bedrooms at any time. The bedrooms shown shall be retained in the form shown on the plans and not subdivided.  
**Reason:** To ensure a suitable standard of accommodation for occupiers to comply with policy QD27 of the Brighton & Hove Local Plan.
6. The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the new development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.  
**Reason:** This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
7. Access to the flat roof over the existing single storey rear extension and attached to bedroom 6 on the approved plans 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. Access to the flat roof from Bedroom six will be restricted and the doors shall be fixed shut prior to first occupation and thereafter permanently retained as such in order to secure the roof terrace from regular use.  
**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.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised that the scheme required to be submitted by Condition 6 should include the registered address of the completed development; an invitation to the Council as Highway Authority (copied to the Council's Parking Team) to amend the Traffic Regulation Order; and details of arrangements to notify potential purchasers, purchasers and occupiers that the development is car-free.

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site comprises a pair of three storey (including a room in a conjoined gabled front roof elevation), semi-detached properties, on the east side of Osmond Gardens. The property is painted brick on the ground floor, and painted pebbledash on the first floor. The roof is a concrete tile finish.
- 2.2. The application seeks to convert a former care home into a Sui Generis HMO with 8 bedrooms.

## 3. RELEVANT HISTORY

- 3.1. 3/91/0660F: Retrospective construction of balustrade to provide balcony over rear extension (Granted 25/11/91)
- 3.2. 3/88/1096: Rear Extension (Granted 3/2/89)
- 3.3. 3/81/0583: Change of use of dwelling house into rest home (Granted 6/11/81)
- 3.4. 3/81/0530: Conversion of single dwelling house into guest house (Granted 16/10/81)
- 3.5. M/9054/62: Conversion of dwellinghouse into 3 self-contained flats for domestic use (Granted 23/8/62)

## 4. REPRESENTATIONS

- 4.1. **Eight (8) letters** have been received objecting to the proposed development for the following reasons:
  - Too many HMO's in the area
  - Additional traffic
  - Impact on parking
  - Noise and disturbance
  - Impact on property prices
  - Loss of family housing
  - Loss of privacy due to balcony at rear first floor overlooking rooms on neighbouring properties.

## 5. CONSULTATIONS

- 5.1. Social Care and Health:

### No objection

The care home is already closed so would have no impact on people placed there. There are too few bedrooms and unlikely to be profitable. There is no lift

and would not be able to meet the care needs of residents unless they are mobile and able to handle stairs safely.

5.2. Housing Strategy:

No objection

No comment on the application but the applicant will need to apply for an HMO licence.

5.3. Planning Policy:

Comment

There is a lack of information on the application to address the requirements of policy HO11 of the Brighton and Hove Local Plan. The application does not detail locations for the storage of waste and recycling.

Further comments were provided following feedback from Health and Adult Social Care which indicated that the property was not suitable for use as a care home and as no other identified use in line with the priorities under policy HO11 have been identified, the application can be allowed in line with that policy.

5.4. Sustainable Transport:

Comment

There are no details provided for cycle storage. This should be required of the applicant if possible on the site. The property is within Controlled Parking Zone O and there has been a 92% permit uptake in the last 12 months, so it is recommended that the development be made car free.

## 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
CP21	Student housing and Housing in Multiple Occupation

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

TR7	Safe Development
TR14	Cycle access and parking
SU10	Noise Nuisance
QD5	Design - street frontages
QD14	Extensions and alterations
QD27	Protection of amenity
HO11	Residential care and nursing homes

### Supplementary Planning Documents:

SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The main considerations in the determination of this application relate to the loss of the care home (C2) and whether allowing the use of the property as a large 8 bed HMO (sui generis) would be acceptable in the context of the policy requirement to prioritise meeting identified local need. The impact of the HMO in the area and the impact on amenity and transport are also considerations.
- 8.2. Planning Policy:  
Policy HO11 "Residential care and nursing homes" of the Brighton and Hove Local Plan, states that:  
*"Where the loss of a residential / care home is considered acceptable, the priority will be to secure additional housing units or supported housing, for people with special needs."*
- 8.3. The Council's Social Care and Commissioning Teams were consulted on the loss of the Residential Care Home, and identified that the standard of accommodation and development within the building would not be suitable for such a use due to issues with accessibility and functionality. Since the previous care home closed, any new operator would be expected to meet up to date and current standards and this could be difficult to meet given the works relate to an existing building and may require planning permission.
- 8.4. No alternative uses to meet specific needs relevant to the C2 use have been raised.

- 8.5. The policy requires that 'priority will be to secure additional housing units or supported housing, for people with special needs'. As no such alternative use has been identified, there are no objections to the loss of the C2 unit.
- 8.6. With regard to the use of the property as a large HMO with 8 bedrooms, the application needs to be assessed against Policy CP21 of the Brighton and Hove City Plan Part One.
- 8.7. Policy CP21 specifically addresses the issue of changes of use to either class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation and states that:
- 8.8. 'In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in multiple occupation) use, a mixed C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:
- More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use.'*
- 8.9. A mapping exercise has been undertaken which indicates that there are 33 neighbouring properties within a 50m radius of the application property. One other property has been identified as being in HMO use within the 50m radius. The percentage of neighbouring properties in HMO use within the radius area is therefore 3%. Based upon the existing percentage of neighbouring properties in HMO use, which is less than 10%, the proposal to change of use to a 8 bed house in multiple occupation would not be in conflict with the aims of policy CP21.
- 8.10. Design and Appearance:  
There are no external changes to the property, and therefore there are no considerations with regard to the design and appearance for this application.
- 8.11. Standard of Accommodation  
HMO licensing seeks to secure minimum standards of accommodation fit for human habitation such as fire safety standards and access to basic facilities such as a kitchen, bathroom and toilet. The Local Planning Authority's development plan has a wider remit to secure a good quality of accommodation which would ensure a good standard of amenity for future occupiers. It is therefore clear that the remit of the Planning regime allows the Local Planning Authority to consider a wider range of issues and to seek to secure a higher standard of accommodation than the bare minimum fit for human habitation secured by the licencing requirements.
- 8.12. Whilst the Local Planning Authority does not have adopted space standards, for comparative purposes the Government's Technical Housing Standards - National Described Space Standards March 2015 document states that "in

order to provide one bedspace, a single bedroom has a floor area of at least 7.5m<sup>2</sup> and is at least 2.15m wide" and with respect of a double bed "has a floor area of at least 11.5m<sup>2</sup>" and "one double (or twin bedroom) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide".

- 8.13. The layout of the property as proposed is arranged over three floors. The ground floor has two bedrooms, a lounge/diner, and a kitchen. The first floor has four bedrooms, with a balcony off room 6. The second floor has a further two bedrooms. There are toilets and bathrooms on each floor.
- 8.14. The bedrooms vary in size between 10.3msq, to 20.7msq. two of the bedrooms (room a and room 3) are below 11.5msq, and would therefore be suitable as single rooms. All the others are above 11.5msq and would therefore be suitable for double rooms. This could potentially result in an occupancy level of up to 14 people. Clarification from the applicant has been provided to confirm that the intended maximum occupancy will be no more than 9 people. This level of occupancy is considered to be acceptable and a condition to secure this is recommended.
- 8.15. The level of communal space provided with this proposed use would constitute 35msq of living and dining space, and 12.6msq of kitchen, giving a total of 47msq communal space. This is considered an acceptable standard of communal space for the proposed maximum of 9 people.
- 8.16. On the basis of the issues addressed above, the property would be suitable for occupation by up to nine residents.
- 8.17. Impact on Amenity:  
This application is not located in an area that currently has above 10% of properties within 50m of the application site being HMO's. While any additional HMO's have the potential for increasing the cumulative impact of such properties and the harm to amenity with which they are often associated, in this instance the existing numbers of HMO's in the area do not give cause to refuse the application on the grounds of potential amenity impact.
- 8.18. The property as previously used had a balcony/roof terrace over a ground floor extension. This was accessed from bedroom 6. The use of this roof terrace has the potential to cause harm to the amenity of neighbours as a result of overlooking and noise. The roof terrace is in close proximity to the rear first floor window of the neighbouring property which is likely to be used as a bedroom. The potential for overlooking into that room would cause real harm to the amenity through loss of privacy to the occupant of that room. In addition, there is a ground floor window in the neighbouring property that would be overlooked from the balcony and this would also result in harm to amenity through loss of privacy. A privacy screen would not be appropriate in this situation as the additional height would create an overbearing structure from the perspective of the ground floor window and would create an obscure barrier to the outlook from the first floor window.

8.19. In addition to the potential harm from overlooking the use of the roof terrace could also create a level of noise and disturbance to the occupants of the neighbouring property - in particular to the bedroom on the first floor - that would be harmful to the amenity of the neighbours. In light of the potential harm from overlooking and noise disturbance, it is considered that the use of the roof terrace cannot be supported. In this context, the applicant has agreed to secure and fix shut the door from room 6 onto the balcony, and to retain it as such thereafter. With no access to the balcony, the potential risk of harm to amenity would have been fully addressed and a condition is recommended to prevent its use as a roof terrace.

8.20. Sustainable Transport:

There is space for one car in front of the property and an existing crossover. This can be retained. No other parking provision is proposed. The Parking Standards set out in SPD14 set out a maximum of 0.25 parking spaces per bedroom in properties in this area, and the proposal of one space is in line with this guidance.

8.21. The property is located in an area which is covered by a Controlled Parking Zone, Zone O. The proposed development has the potential to generate some additional on-street parking demand. The impact of this has not been assessed by a parking survey as part of the applicant's submission for this application. In lieu of such a survey, the council uses parking permit uptake data to assess parking occupancy levels in such areas. Where permit uptake exceeds 80% over the previous 12 months in a CPZ, no additional vehicles are permitted without a parking survey.

8.22. Permit uptake in CPZ/O has been 92% over the previous 12 months. Therefore a proposed change of use to large HMO will only be supported if the development would be car free. This will be secured by condition.

8.23. No cycle storage has been proposed as part of this application. The standards set out in SPD14 requires a minimum of storage for 1 cycle per 2 bed spaces. The application proposes a maximum occupancy of 9 people, and therefore a minimum of 5 cycle storage spaces would need to be provided. The provision of this will be secured by condition.

## **9. EQUALITIES**

9.1. None identified



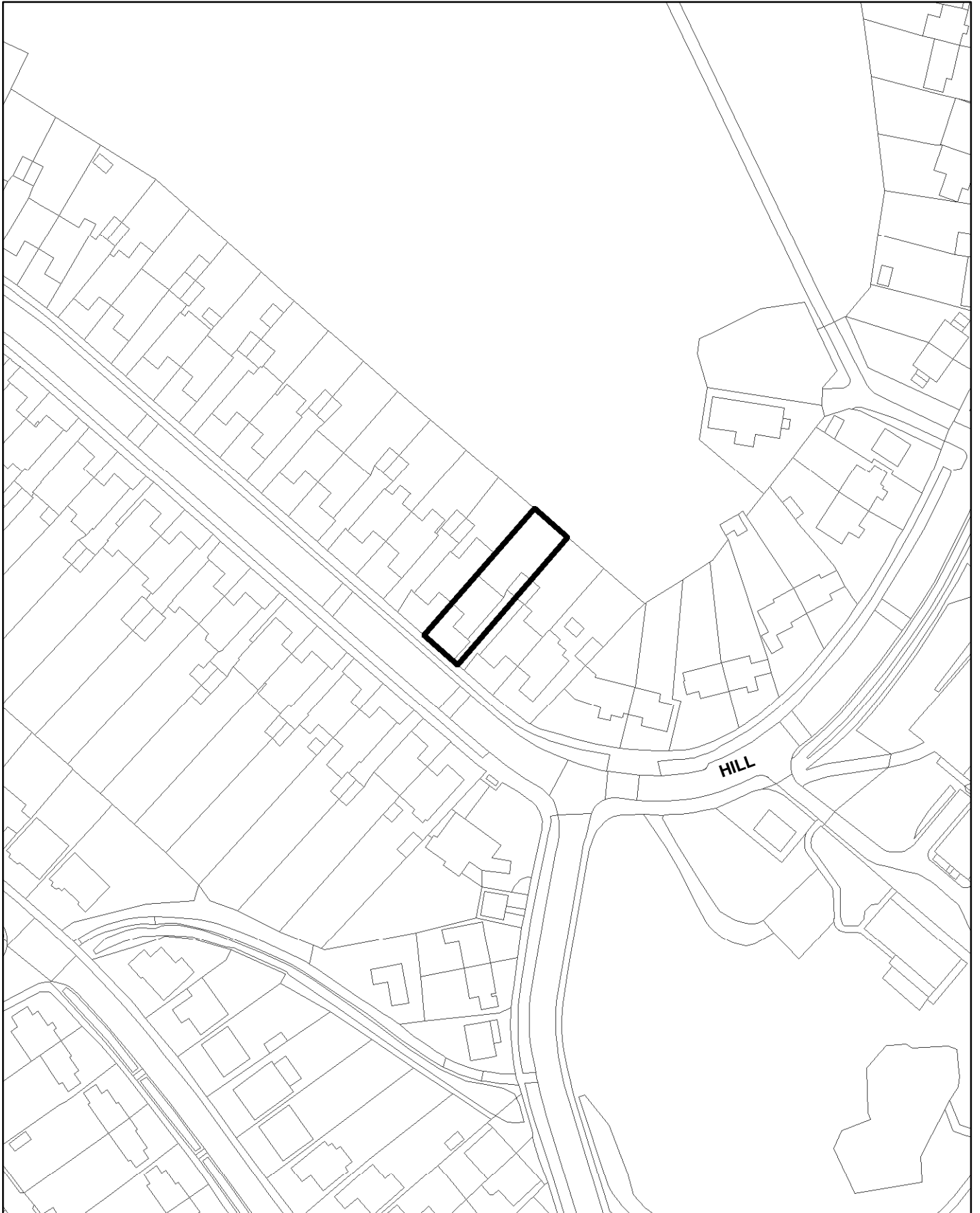
# **ITEM O**

**95 Heath Hill Avenue, Brighton  
BH2018/02532  
Full Planning**

**DATE OF COMMITTEE: 6<sup>th</sup> March 2019**



BH2018/02532 95 Heath Hill Avenue



Scale: 1:1,250

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<b><u>No:</u></b>	<b>BH2018/02532</b>	<b><u>Ward:</u></b>	<b>Moulsecoomb And Bevendean Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>95 Heath Hill Avenue Brighton BN2 4FH</b>		
<b><u>Proposal:</u></b>	<b>Change of use from single dwelling (C3) to six bedroom small house in multiple occupation (C4).</b>		
<b><u>Officer:</u></b>	James Kidger, tel: 292106	<b><u>Valid Date:</u></b>	13.08.2018
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	08.10.2018
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Lewis And Co Planning SE Ltd Road Brighton BN1 5PD	Lewis & Co Planning	2 Port Hall
<b><u>Applicant:</u></b>	Elandus 1 BN1 5PD	C/O Lewis & Co Planning	2 Port Hall Road Brighton

Councillor Daniel Yates has requested this application is determined by the Planning Committee.

## 1. RECOMMENDATION

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

Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Proposed Drawing	COU.01.A		22 October 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 development hereby permitted shall not be brought into use 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 use of the development and shall thereafter be retained for use at all times.

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

4. The development hereby permitted shall not be brought into use until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out and provided in full in accordance with the approved details prior to first use of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policy QD27 of the Brighton & Hove Local Plan, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

5. The development hereby approved shall be implemented in accordance with the proposed layout detailed on the proposed floorplan received on 22nd October 2018 and shall be retained as such thereafter. The rooms annotated as living room and kitchen/dining shall be retained as communal space and shall not be used as bedrooms at any time. The bedrooms shown shall be retained in the form shown on the plans and not subdivided.

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

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

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

Informatives:

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

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

- 2.1. Planning permission is sought to change the use of the property from a single dwellinghouse (use class C3) to a six bedroom small house in multiple

occupation (C4). Planning permission is required because the permitted development right for a change of use of this nature has been removed by way of an Article 4 Direction.

- 2.2. The site is on the north side of Heath Hill Avenue near to its westerly junction with Auckland Drive. It is one of a pair of semi-detached dwellings and similar such structures front the road on both sides.

### **3. RELEVANT HISTORY**

- 3.1. None

### **4. REPRESENTATIONS**

- 4.1. **Sixty-two (62)** representations have been received objecting to the proposed development for the following reasons:

- Too many HMOs in the vicinity;
- Loss of family accommodation;
- Lack of parking;
- Noise; and
- Would contribute to the loss of local facilities.

- 4.2. **Councillor Anne Meadows and Councillor Daniel Yates** object to the proposal. A copy of the objections are attached to this report.

### **5. CONSULTATIONS**

- 5.1. Private Sector Housing: No objection

- 5.2. **Planning Policy:** No objection

### **6. MATERIAL CONSIDERATIONS**

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

- 6.2. The development plan is:

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

- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017)
- 6.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP19 Housing mix
- CP21 Student housing and Housing in Multiple Occupation

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

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

#### Supplementary Planning Guidance:

SPD14 Parking Standards

## 8. CONSIDERATIONS & ASSESSMENT

- 8.1. The main planning considerations material to this application are the principle of the change of use proposed, the standard of accommodation to be provided, the impact on the amenity of neighbouring properties and the impact on transport.
- 8.2. Principle of development  
The Council's approach to the provision of additional houses in multiple occupation (HMOs) is set out in policy CP21 of the Brighton and Hove City Plan Part One. The policy states:
- 8.3. "In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for new build HMO, and applications for the change of use to a Class C4 (Houses in multiple occupation) use, a mixed C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:
- More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use."



- 8.4. Within 50 metres of the site there are 17 dwellings, one of which (38 Heath Hill Avenue) is already in HMO use. This equates to a percentage of 5.9 and as such the development is acceptable in principle.
- 8.5. Standard of accommodation  
The proposed HMO would have six single bedrooms, all with en-suites. Each room would have a floor area in excess of the indicative 7.5 square metres set out in Government's Nationally Described Space Standards, and all would exceed 10 square metres when the en-suites are included. Each room would have a reasonable outlook and would be naturally lit.
- 8.6. The internal communal amenity space would constitute an open-plan kitchen-diner and a separate lounge, together totalling 38 square metres. This would be just over 6 square metres per person - adequate for accommodation of this type - and would ensure sufficient circulation space.
- 8.7. The outdoor amenity space would primarily comprise a rear garden area in excess of 150 square metres. This is considered sufficient for the proposed occupancy and in accordance with policy HO5.
- 8.8. Impact on neighbouring amenity  
No external works to the property are proposed and as such there would be no additional overbearing impact to, or overlooking of, neighbouring properties.
- 8.9. The existing property has five bedrooms, two of which are large enough to be considered doubles, and thus has the potential to be occupied by up to seven persons within its existing C3 use class. Given this, the proposed six person HMO is not considered a harmful intensification of residential use. Overall the development is not considered significantly harmful to neighbouring properties in terms of noise.
- 8.10. Transport  
The property would retain its existing single off-road parking space, which is within the maximum standard set out in SPD14 (0.25 spaces per bedroom). As discussed above, the proposed six person occupancy would not result in a significant intensification of use or trip generation, and there is some potential for overspill parking on-street given that the site is not within a Controlled Parking Zone (CPZ).
- 8.11. Four cycle parking spaces are proposed, which is in excess of the SPD14 standard (1 space per 2 bed spaces). The spaces are shown at the rear of the existing garage and a significant distance from the highway. There would also be the potential for their obstruction by a car parked in the driveway. A revised cycle parking scheme will therefore be requested by condition.
- 8.12. Summary  
The proposed development accords with the provisions of policy CP21, and the standard of accommodation and amenity space to be provided is considered acceptable. There would be no significant harm to neighbouring amenity and

satisfactory cycle parking can be secured by condition. The application is therefore recommended for approval.

## **9. EQUALITIES**

9.1. No implications identified.

Cllr. Dan Yates

BH2018/02532 - 95 Heath Hill Avenue

The impact of this HMO on the surrounding residents, community and properties could be significant due to the nature and intensification of occupation on this site:

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

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

I would ask that officers check the previously held additional licensing register to check their impact on the 10% rule is properly taken into consideration.

I also note that in the recent appeal determination regarding 25 Wheatfield Way applying to increase from a 6 person HMO to a nine person HMO the inspector stated that "the increase in noise and general disturbance arising from the occupation by a maximum of 3 additional tenants would lead to significant harm. " Should the recommendation on this application be to approve I would like this application to come to committee please.

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



Cllr. Anne Meadows

BH2018/02532 - 95 Heath Hill Avenue

I am writing to object to this planning application to turn this family home into an HMO as there are already 87 homes lost to families in the roads that lead into Heath Hill Avenue plus a student development of more than 20 bedrooms. This planning application must be refused as it exceeds the limit of 10% and there must be an area based approach to this issue to prevent more family homes lost to the city. This planning application is just across the road from the old Doctors surgery which is being rebuilt to accommodate over 20 students.

The application must be stopped as the infrastructure such as the local school, the local church and the local community cannot cope with more people who are unwilling to engage in the community



**Information on Pre-application Presentations and Requests 2018/19**

<b>Date</b>	<b>Address</b>	<b>Ward</b>	<b>Proposal</b>	<b>Update</b>
06/03/18	29-31 New Church Road, Hove	Westbourne	Mixed use development.	Application BH2018/02126 under consideration.
06/03/18 & 03/04/18	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.	Application BH2018/03633 under consideration.
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.	Application BH2018/02598 under consideration.
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.	Application BH2018/02699 under consideration.
08/05/18	Rear of Lyon Close, Hove	Goldsmid	Mixed use scheme 160 units (C3) and 1000sqm office (B1) floorspace.	Application BH2018/01738 under consideration.
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 refused 6 December 2018.
17/07/18	Enterprise Point,	Hanover & Elm	Purpose Built Student Housing	Application BH2018/02751 under

**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.**

	Melbourne Street, Brighton	Grove	(350 bedspaces), with some employment space at ground floor and affordable housing block	consideration.
14/08/18	KAP, Newtown Road, Hove	Hove Park	Mixed Use residential / B1 scheme. Approx. 150 units	Application BH2018/03353 under consideration.
14/08/18	21 – 24 Melbourne Street, Brighton	Hanover & Elm Grove	Co-living (100 units) C3 / B1	
11/09/18	Sackville Trading Estate, Sackville Road, Hove	Hove Park	Mixed residential and commercial development.	Application BH2018/03697 under consideration.
03/10/18	Urban Fringe at Coldean Lane, NW of Varley Halls, Brighton	Hollingdean & Stanmer	Residential development.	Application BH2018/03541 under consideration.
03/10/18	Urban Fringe Site at The Whitehawk Estate, Brighton	East Brighton	Residential redevelopment.	Member and officer pre-app and Design review undertaken.
09/10/18	Land at former Belgrave Nursery, Clarendon Place, Portslade	South Portslade	Residential redevelopment.	Application BH2018/02629 under consideration.
06/11/18 & 04/12/18	Outer Harbour Development, West Quay, Brighton Marina	Rottingdean Coastal	Mixed Use Residential-led development – significant changes to later phases of Outer Harbour Development	Pre-app discussions in progress and PPA agreed. 1st Design Review 03/10/18. Public consultation event end of October. 2 <sup>nd</sup> Design Review 27/11/18.
04/12/18 Requested	Vantage Point and Circus Parade, New England St/New	St Peters and North Laine	Mixed use office-led redevelopment, incl residential, retail, dance studio, student flats,	Presented at Design Review Panel 04/7/18, amended and then re-presented on 30/10/18. LPA

**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.**



	England Rd/Elder Place, Brighton		car park, public realm improvements.	provided written feedback 04/10/18 and discussions on-going.
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**NOTE: The Pre Application Presentations are not public meetings and as such are not open to members of the public. All Presentations will be held in Hove Town Hall on the date given after scheduled site visits unless otherwise stated.**



### NEW APPEALS RECEIVED

<b><u>WARD</u></b>	<b>CENTRAL HOVE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2017/04125
<b><u>ADDRESS</u></b>	7 - 9 Vallance Road Hove BN3 2DA
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Change of use from residential care home (C2) to 2no eight bedroom houses of multiple occupation (Sui Generis).
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	11/01/2019
<b><u>APPLICATION DECISION LEVEL</u></b>	Delegated

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<b><u>WARD</u></b>	<b>HANOVER AND ELM GROVE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2017/00319
<b><u>ADDRESS</u></b>	62 Bernard Road Brighton BN2 3EQ
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Change of use from small house in multiple occupation (C4) to large house in multiple occupation (Sui Generis) (Retrospective)
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	23/01/2019
<b><u>APPLICATION DECISION LEVEL</u></b>	Delegated

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<b><u>WARD</u></b>	<b>HANOVER AND ELM GROVE</b>
<b><u>APPEALAPPNUMBER</u></b>	BH2018/00632
<b><u>ADDRESS</u></b>	83 Brading Road Brighton BN2 3PE
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Certificate of lawfulness for proposed use as a small house in multiple occupation (C4).
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	24/01/2019
<b><u>APPLICATION DECISION LEVEL</u></b>	Delegated

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<b><u>WARD</u></b>	<b>HANOVER AND ELM GROVE</b>
<b><u>APPEALAPPNUMBER</u></b>	
<b><u>ADDRESS</u></b>	62 Bernard Road Brighton BN2 3EQ
<b><u>DEVELOPMENT DESCRIPTION</u></b>	Appeal against
<b><u>APPEAL STATUS</u></b>	APPEAL IN PROGRESS
<b><u>APPEAL RECEIVED DATE</u></b>	23/01/2019
<b><u>APPLICATION DECISION LEVEL</u></b>	Not Assigned

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<b><u>WARD</u></b>	<b>HANOVER AND ELM GROVE</b>
<b><u>APPEALAPPNUMBER</u></b>	

ADDRESS 72 Brading Road Brighton BN2 3PD  
DEVELOPMENT DESCRIPTION Appeal against  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 23/01/2019  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **HANOVER AND ELM GROVE**

APPEALAPPNUMBER  
ADDRESS 83 Brading Road Brighton BN2 3PE  
DEVELOPMENT DESCRIPTION Appeal against  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 24/01/2019  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **HANOVER AND ELM GROVE**

APPEALAPPNUMBER  
ADDRESS 99 Brading Road Brighton BN2 3PE  
DEVELOPMENT DESCRIPTION Appeal against  
APPEAL STATUS APPEAL LODGED  
APPEAL RECEIVED DATE 25/01/2019  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **HANOVER AND ELM GROVE**

APPEALAPPNUMBER  
ADDRESS 99 Brading Road Brighton BN2 3PE  
DEVELOPMENT DESCRIPTION Appeal against  
APPEAL STATUS WITHDRAWN APPEAL  
APPEAL RECEIVED DATE 24/01/2019  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **HOLLINGDEAN AND STANMER**

APPEALAPPNUMBER  
ADDRESS 27 Hollingbury Road Brighton BN1 7JB  
DEVELOPMENT DESCRIPTION Appeal against  
APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 24/01/2019  
APPLICATION DECISION LEVEL Not Assigned

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**WARD** **HOVE PARK**

APPEALAPPNUMBER BH2018/02359  
ADDRESS 3 Meadow Close Hove BN3 6QQ  
DEVELOPMENT DESCRIPTION Demolition of existing three bedroom bungalow (C3) and erection of 4 bedroom two storey dwelling (C3).

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 29/01/2019  
APPLICATION DECISION LEVEL Planning (Applications) Committee

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**WARD** **MOULSECOOMB AND BEVENDEAN**  
APPEALAPPNUMBER BH2018/02429  
ADDRESS 4 Baden Road Brighton BN2 4DP  
DEVELOPMENT DESCRIPTION Erection of 1no four bedroom detached dwelling (C3) incorporating highway crossover and associated landscaping alterations.

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 23/01/2019  
APPLICATION DECISION LEVEL Delegated

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**WARD** **NORTH PORTSLADE**  
APPEALAPPNUMBER BH2018/02224  
ADDRESS 403 Mile Oak Road Portslade BN41 2RD  
DEVELOPMENT DESCRIPTION Erection of one 2no bedroom bungalow (C3).

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/01/2019  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WESTBOURNE**  
APPEALAPPNUMBER BH2018/01615  
ADDRESS Basement 84 Portland Road Hove BN3 5DL  
DEVELOPMENT DESCRIPTION Change of use of basement level from take-away storage (A5) to form 1no. residential unit (C3) incorporating revised fenestration & associated alterations.

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 11/01/2019  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WESTBOURNE**  
APPEALAPPNUMBER BH2018/02291  
ADDRESS Flat 3 58 Westbourne Street Hove BN3 5PH  
DEVELOPMENT DESCRIPTION Installation of dormer to front elevation of small house in multiple occupation (C4).

APPEAL STATUS APPEAL IN PROGRESS  
APPEAL RECEIVED DATE 23/01/2019  
APPLICATION DECISION LEVEL Delegated

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**WARD** **WITHDEAN**  
APPEALAPPNUMBER BH2018/00706  
ADDRESS 6 Hillbrow Road Brighton BN1 5JP

<u>DEVELOPMENT DESCRIPTION</u>	Demolition of existing dwelling and erection of 1 no. dwelling fronting Colebrook Road and 2 no. dwellings fronting Hillbrow Road including new crossover.
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	11/01/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

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<b><u>WARD</u></b>	<b>WITHDEAN</b>
<u>APPEALAPPNUMBER</u>	
<u>ADDRESS</u>	Lantorn Cottage 78 Wayland Avenue Brighton BN1 5JN
<u>DEVELOPMENT DESCRIPTION</u>	Appeal against
<u>APPEAL STATUS</u>	APPEAL IN PROGRESS
<u>APPEAL RECEIVED DATE</u>	23/01/2019
<u>APPLICATION DECISION LEVEL</u>	Not Assigned

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# PLANNING COMMITTEE: 6<sup>th</sup> March 2019

Agenda Item 116

Brighton & Hove City Council



**Brighton & Hove  
City Council**

## INFORMATION ON HEARINGS / PUBLIC INQUIRIES

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

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Planning Application no:	BH2016/02663
Description:	Demolition of existing commercial units (B8) and erection of buildings ranging from four storeys to seventeen storeys in height comprising a mixed use development of no.186 residential apartments (C3), 1,988 sqm of offices (B1) and 226sqm of retail (A1) with car parking at basement level.
Decision:	
Type of Appeal	Informal Hearing against refusal
Date:	Awaiting Decision
Site Location:	Unit 1-3 Ellen Street Hove





**APPEAL DECISIONS**

	<b>Page</b>
<b>A – 29A MONTPELIER CRESCENT (BASEMENT FLAT), BRIGHTON, - REGENCY</b>	<b>377</b>
<p>Enforcement Appeal against notice ENF 2018/0004/12/66/18 relating to alleged contraventions of listed building control  <b>APPEAL ALLOWED</b> – in relation to allegations set out at a) and requirement a). <b>Otherwise</b> listed building enforcement upheld.</p>	
<b>B – 2 HENGE WAY LAND NEXT TO BRACKENBURY CLOSE, PORTSLADE – NORTH PORTSLADE</b>	<b>383</b>
<p>Application BH2018/01407 – Appeal against refusal to grant planning permission for construction of a new house with crossover and parking. <b>APPEAL DISMISSED</b> (delegated decision)</p>	
<b>C – LAND TO SIDE, 44 STANLEY AVENUE, PORTSLADE – NORTH PORTSLADE</b>	<b>385</b>
<p>Application BH2018/013050 – Appeal against refusal to grant planning permission for construction of a 1 bedroom dwelling ground floor and basement. <b>APPEAL DISMISSED</b> (delegated decision)</p>	
<b>D – 22 MIDDLETON AVENUE, HOVE – WISH</b>	<b>389</b>
<p>Application BH2017/02609 – Appeal against refusal to grant planning permission for certificate of lawful use or development for proposed roof alterations comprising hip to gable extension and rear dormer extension. <b>APPEAL DISMISSED</b> (delegated decision)</p>	

**E – 106 MONTGOMERY STREET, HOVE – WESTBOURNE 393**

Application BH2018/00202 – Appeal against refusal to grant planning permission for demolition of existing lower ground floor extension and erection of a two-storey rear extension to the ground and lower ground floor flats. **APPEAL DISMISSED** (delegated decision)

**F – GARAGES REAR, 187 KINGSWAY, HOVE – WESTBOURNE 395**

Application BH2017/03293 – Appeal against refusal to grant planning permission for demolition of the existing garages and erection of 2no 2 storey dwellings plus basement level. **APPEAL DISMISSED** (delegated decision)

**G – 145 SACKVILLE ROAD, HOVE – GOLDSMID 399**

Application BH2017/03523 – Appeal against refusal to grant planning permission for change of use from A2 to A5 and installation of extraction system. **APPEAL ALLOWED** (delegated decision)

**H – 81A SHIRLEY STREET, HOVE – GOLDSMID 403**

Application BH 2017/03631 - Appeal against refusal to grant planning permission for demolition of derelict light industrial/storage buildings and construction of four terraced mews houses with cycle parking. **APPEAL ALLOWED** (delegated decision)

**H – 1- 3 ELLEN STREET, HOVE – GOLDSMID 409**

Application BH2016/02663 - Appeal against refusal to grant planning permission for permission for demolition of existing commercial units to provide a mixed use development comprising 188 residential apartments, 1,988sqm of office space and 226sqm of retail space **APPEAL ALLOWED** (delegated decision)

**I – 66 BUCKINGHAM ROAD, BRIGHTON – 423**  
**ST PETER’S & NORTH LAINE**

Application BH 2018/00482 - , Appeal against refusal to grant planning permission for extension and conversion of Class C4 maisonette into two Class C3 studio flats. **APPEAL ALLOWED** (delegated decision)

**J – 38A UPPER GARDNER STREET, BRIGHTON – 427**  
**ST PETER’S & NORTH LAINE**

Application BH2018/00641 - Appeal against refusal to grant planning permission for part conversion and extension of the existing storage to provide B1 office floor space. **APPEAL DISMISSED** (delegated decision)

**K – 46 NEWMARKET ROAD, BRIGHTON – 431**  
**HANOVER & ELM GROVE**

Application BH2018/00123 - Appeal against refusal to grant planning permission for change of use of a 6 bedroom small house in multiple occupation to A 7 bedroom house in multiple occupation. **APPEAL ALLOWED** (delegated decision)

**L – 43 STANMER PARK ROAD, BRIGHTON – 435**  
**HOLLINGDEAN & STANMER**

Application BH018/01971 - Appeal against refusal to grant planning permission for change of use from C3 single dwelling house To C4 HMO (3 t 6 occupants). **APPEAL ALLOWED** (delegated decision)

**M – FLAT 1, 37 SPRINGFIELD ROAD, BRIGHTON – 439**  
**PRESTON PARK**

Application BH2018/00719 - Appeal against refusal to grant planning permission for proposed rear extension. **APPEAL DISMISSED** (delegated decision)

**N – LAND R/O 62 & 64 PRESTON ROAD, BRIGHTON – 443**  
**PRESTON PARK**

Application BH2017/04186 - Appeal against refusal to grant planning permission for erection of a 5 storey extension to rear of existing building incorporating excavations for basement enlargement and alterations to provide 4 flats (C3) and bin store. **APPEAL DISMISSED** (delegated decision)

**O – 17 GABLESON AVENUE, BRIGHTON – WITHDEAN** **445**

Application BH2017/04033 - Appeal against refusal to grant planning Permission for certificate or lawful or development for construction of a garden room. **APPEAL DISMISSED** (delegated decision)

**P – 10 CARDEN AVENUE, BRIGHTON – PATCHAM** **449**

Application BH2018/00419 - Appeal against refusal to grant planning permission for creation of a self-contained 2 bedroom apartment with garden from existing extension with separate access. **APPEAL DISMISSED** (delegated decision)

**R – 13 COURT CLOSE, PATCHAM, BRIGHTON – PATCHAM** **453**

Applications a) BH2017/ 00840 and b) BH2017/04178, - Appeal against refusal to grant planning permission for alteration and extensions to existing property and subdivision to form 2no semi-detached properties, including associated parking and landscaping. **BOTH APPEALS DISMISSED** (delegated decision)

**S – 4 THE PARK, ROTTINGDEAN, BRIGHTON – ROTTINGDEAN COASTAL** **457**

Application BH 2018/0638 - Appeal against refusal to grant planning permission for proposed alterations and extensions to create a 3 bedroom house. **APPEAL ALLOWED** (committee decision)



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## Appeal Decision

Site visit made on 29 January 2019

**by Anthony J Wharton BArch RIBA RIAS MRTPI**

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

**Decision date: 6 February 2019**

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### **Appeal Ref: APP/Q1445/F/18/3209476**

### **29a Montpelier Crescent (Basement Flat), Brighton BN1 3JJ**

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Ali Bilal against a listed building enforcement notice (LBEN) issued by Brighton and Hove Council (the LPA).
- The enforcement notice, numbered ENF 2018/0004/12/66/18 was issued on 12 June 2018.
- The contraventions of listed building control alleged in the notice is as follows:
  - (a) Removal of skirting boards, cupboards and interior walls/doors to stairs and forming the access to the former scullery.
  - (b) Installation and enlargement of an open-plan kitchen/lounge.
  - (c) Removal of windows and doors facing the courtyard.
  - (d) Construction of timber decking and seating in the courtyard.
  - (e) Removal of an outbuilding (no ability to mitigate loss).
  - (f) Removal of a fireplace and mantel in the former lounge and former bedroom.
- The requirements of the notice are as follows:
  - (a) Reinstate the partition wall of the former hallway and access to the former scullery (in current kitchen) as identified on the existing plan Drawing 754-11 Rev A dated Dec 2017 submitted with listed building consent application BN2017/04233.
  - (b) Remove all skirtings and replace with painted 5 inch pencil-round skirtings.
  - (c) Remove and replace the internal door between the lobby and the hall with a painted soft-wood single upper glass pane and two solid fielded panels below to match the detailing and dimensions of the surrounding door frame as shown in the pre-existing photograph, Appendix B with bolection mouldings to the panels.
  - (d) Reinstate the wooden door in the outrigger (former courtyard door for the kitchen) as referred to as D08 on the pre-existing plan titled: Elevation and Section Plan Drawing 754-11 Rev A dated Dec 2017 submitted with listed building application BH2017/04233 and as shown in Appendix 1 and as per pre-existing photograph in Appendix 2. The door is to be painted a neutral colour.
  - (e) Remove all remaining existing internal doors and surrounds - not specified in (c) or (d) above - and replace with softwood painted fielded four panel doors and surrounds as shown in pre-existing photograph Appendix 2.
  - (f) Reinstate the historic joinery cupboards in the former bedroom to match pre-existing photograph in Appendix 2.
  - (g) Reinstate fireplace and mantels surrounds in the former lounge to match pre-existing photograph Appendix 2. Note: the firebox is excluded from the requirements of this notice.
  - (h) Reinstate the fireplace surround and mantel in the former bedroom to match pre-existing photograph Appendix 2.
  - (i) Reinstate the timber windows of former bedroom (referenced as W03 on the pre-existing Drawing 754-11 Rev A dated Dec 2017 submitted with listed building application BH2017/04233 and as shown in Appendix 1 and as per

pre-existing photograph in Appendix 2.

(j) Reinstate the timber outrigger window (located above the former kitchen sink) to match the pre-existing interior and exterior photographs (referenced as W03 in pre-existing Drawing 754-11 Rev A dated Dec 2017 submitted with listed building application BH2017/04233 and as shown in Appendix 1 and photograph Appendix 2.

(k) Remove the timber decking , pergola and seating in the courtyard and make good brick pavements underneath as shown in pre-existing photograph Appendix 2

- The period for compliance with the requirements is 24 weeks.
  - The appeal is made on ground (e) only, as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) as amended.
- 

## **Decision**

1. The appeal is allowed in relation to allegation (a) and requirement (a). Otherwise the listed building enforcement notice is upheld. See formal decision below.

## **Matters of clarification**

2. The full requirements of the LBEN are set out above as (a) to (k). However, on behalf of the appellant it is confirmed that it is the intention to comply with requirements (b) to (k) inclusive with regard to the alleged breaches of listed building control. It is also confirmed that the appeal on ground (e) solely relates to requirement (a) of the LBEN.

3. This has been acknowledged by the Council and thus it is agreed by the parties that the appeal be dealt with in relation to allegation (a) and requirement (a) only on ground (e) only. It is on this basis that I have dealt with the appeal and have only considered whether or not listed building consent ought to be granted for the works as set out in allegation (a). However, irrespective of my conclusions relating to allegation (a) and requirement (a), the LBEN will need to be upheld in relation to requirements (b) to (k). When these requirements have been fully completed, the LBEN will cease to have effect.

## **Background information**

4. The appeal property (No 29a) comprises the lower ground floor flat which forms part of the Grade II\* listed building at No 29 Montpelier Crescent. The building was listed in 1952 as part of the group of buildings comprising the terrace numbered 7 to 31 which is a fine example of Regency architecture. The building was converted to flats in 1951 prior to listing. The terrace of houses was designed by Amon Henry White and was built between 1843 and 1847. The cream painted and stucco rendered houses curve around an informal park fronting Vernon Terrace.

5. In March 2018 Listed Building Consent (BH2017/04233) and Planning Permission (BH2018/00165) were refused for various external and fenestration works. Listed Building Consent was approved in July 2018 for internal alterations to the layout; replacement of doors and other associated works and external alterations incorporating revised fenestration (part retrospective).

6. The most relevant policies are policy CP15 (Heritage) of the Brighton and Hove City Plan Part One (BHCP) and retained policies HE1 (Listed Buildings) and HE4 (Reinstatement of original features on listed buildings) of the Brighton and Hove Local Plan 2005 (BHLF). Policies within the National Planning Policy Framework 2018 (NPPF) are also relevant and in particular those set out in Section 16 (Conserving and enhancing the historic environment). The Council's supplementary guidance SPD09 (Architectural Features) and SPGHH11 (Listed Building Interiors) are also relevant.

7. Because the building is listed in Grade II\* and also lies within the Montpelier and Clifton Conservation Area (MCCA), I have also had special regard and paid special attention to the requirements of sections 16(2) and 72 of the PLBCAA.

### **The appeal on ground (e) and main issues**

8. As indicated above the only ground of appeal is ground (e) which is made on the basis that Listed Building Consent ought to be granted for all of the works as set out in allegation (a) to the notice.

9. The main issues are as follows:

- the effect on the integrity and character of the listed building; and,
- the effect on its features of special architectural and historic interest.

10. Because the works are internal I do not consider that they have affected the setting of the listed building or the character or appearance of the MCCA.

### **The case for the Appellant**

11. It is contended that whilst acknowledging that the interior of the listed building is important and that respectful treatment is necessary, the main significance of the listing derives from its contribution to the historic street scene. In that light it is considered that the works associated with the removal of the former partition does not harm the significance of the building. Reference is made to part of Drawing 754-11 Rev A which is referred to in the LBEN.

12. It is considered that the wall was unlikely to have been an original wall and that it is reasonable to suggest that it was installed when the building was converted to flats prior to the listing in 1952. It is stressed that in not requiring the adjacent partition to be reinstated, the LPA has acknowledged that the removal of this partition has not caused any harm to the significance of the building and in particular its original layout. This is despite the fact that this partition is more likely to have been an original part of the basement layout.

13. It is further contended that the proportions of the original Regency rooms are retained despite the removal of the former partition wall. It is also indicated that the principal plan form of the flat has been retained and the proportions of the rooms maintained. In conjunction with the restorative works being carried out it is considered that the character of the heritage asset will be preserved and will be readily apparent. It is stressed that reinstatement of the partition would involve re-location of the current kitchen and that such works would not be beneficial to the fabric or appearance of the basement flat within listed building.

### **The case for the Council**

14. The Council stresses that the significance of the listed buildings within the Crescent lies not only in their grand crescent façade but also in the retention of their original fabric and planforms. It is contended that prior to the unauthorised works being carried out the basement had retained its historic plan forms and features. This had included the stairs connecting the basement to the ground floor. Emphasis is placed upon the SPGBH11 guidance referring to the importance that is placed on basements remaining in anything like their original layout.

15. In response to the appellant's contention that the partition wall is unlikely to have been an original wall, the Council refers to a 2002 plan which shows the ground floor stairs aligning with the location of the stairs and partition in the basement. It is stressed that SPGBH11 expects alterations to respect the original plan so that overall the former layout remains 'readable'. It is also indicated that the document goes on to say that the complete or substantial removal of original walls will not normally be

acceptable. The Council also refers to the pre-existing plan 754-11 Revision A which is clearly annotated '*Low Height (Disused Stair Over)*'.

16. It is also indicated that the stairs and the partition wall would have been the only link between ground and basement levels. Despite the fact that they were unused it is contended that they remained an important historic element of the building and that the loss of the partition wall has caused harm to the overall significance of No 29a Montpelier Crescent. With regard to the other adjacent wall, the Council is of the view that this was likely to have been a modern wall introduced when the building was altered and converted to flats in the 1950s in order to create a separate room from the hallway. Whilst accepting that the kitchen would have to be altered it is considered that the lost features should be reinstated in order to restore the historic platform of the listed building.

### **Assessment**

17. Having inspected the basement flat and having noted the former positions of the partition walls (and low height staircase) in question, I do not consider that their removal has significantly affected the character or integrity of the building as one of architectural and historic significance.

18. I acknowledge that the former layout, including the scullery and former under stair area would have been typical of the basement area of the house as a whole. It is likely that part of the partition removed would have been in the location of the former wall to the staircase which linked the ground floor to the basement of the house. However, this was radically changed in 1951, prior to listing, when the basement flat was created as a separate entity from the original ground floor of the house.

19. There is some evidence to indicate that when the conversion was carried out the ground to basement part of the staircase was left in place. But only part of a partition wall was seemingly left as part of the earlier fabric. However, it was the conversion to flats that affected the historic layout of the listed building and these works were granted consent and or approval prior to the listing in 1952. Thus, when the latest works were carried out, following listed building consent in July 2018, the historic layout, in my view, had already been significantly altered.

20. I agree with the Council that the significance of the listed buildings within the Crescent lies not only in their grand crescent façade but also in the retention of their original fabric and planforms. But I am not convinced by the representations that the basement had retained its complete historic plan form and features including the full staircase connecting the basement to the ground floor.

21. I acknowledge that the 2002 plan (referred to by the Council) shows the ground floor stairs aligning with the location of the stairs and partition in the basement and that the former layout may still have been 'readable'. However, I do not consider that the removal of the partition in question has significantly affected the integrity of this part of the listed building.

22. I also accept that SPGBH11 expects alterations to respect the original plan so that, overall, the former layout remains 'readable' and that the complete or substantial removal of original walls will not normally be acceptable. However, the pre-existing plan 754-11 Revision A is annotated '*Low Height (Disused Stair Over)*'. This would not have been the full staircase since it had been necessary in 1951 to sever the staircase which connected the ground floor to the basement. Again, therefore, on balance, I do not consider that the latest alterations have rendered the remaining planform 'unreadable'.



23. Having seen the extract from the pre-existing and existing plans, I share the appellant's view that the partition wall is unlikely to have been an original wall. The angle of the partition and door on the pre-existing drawing looks far from being original and was most likely constructed during the conversion to flats in 1951. To reinstate it would not, in my view, assist in appreciating the true original basement plan layout. The fact that the Council now accepts that the removal of the long adjacent wall is acceptable, reinforces my view that the 'reading' of the original basement planform has not been significantly affected by the works as carried out.

24. In summary, therefore, I consider that the works are not contrary to the local and national policies (referred to above) relating to the conservation and enhancement of this heritage asset. I do not consider that the integrity or character of the listed building has been harmed and nor do I consider that that the works have been detrimental in any way to any of the building's features of special architectural and historic interest.

25. It follows that I consider listed building consent should be granted for the works carried out as set out in allegation (a). The appeal succeeds on ground (e) in relation to these works and I shall vary the LBEN to delete requirement (a).

### **Other Matters**

26. In reaching my conclusions I have taken into account all of the submissions made on behalf of the appellant and by the Council. These include the full planning history; the initial grounds of appeal; the detailed statements and the drawn and photographic submissions. However, none of these carries sufficient weight to alter my conclusions and nor is any other factor of such significance so as to change my decision.

### **Formal decision**

27. The appeal is allowed in relation to the works set out in allegation (a) to the notice. Listed building consent is granted for '*Removal of skirting boards, cupboards and interior walls/doors to stairs and forming the access to the former scullery*' in the basement flat at No 29a Montpelier Crescent, Brighton BN1 3JJ.

28. I direct that the LBEN be varied by deleting in full Requirement (a) as set out in section 4 (WHAT YOU ARE REQUIRED TO DO).

29. Otherwise the LBEN is upheld as varied.

*Anthony J Wharton*

Inspector





## Appeal Decision

Site visit made on 10 January 2019

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

an Inspector appointed by the Secretary of State

**Decision date: 01 February 2019**

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### **Appeal Ref: APP/Q1445/W/18/3207925**

### **Henge Way, Land next to 2 Brackenbury Close, Portslade, Brighton BN41 2ES**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Yasemin Genc against the decision of Brighton & Hove City Council.
  - The application, Ref. BH2018/01407, dated 1 May 2018, was refused by notice dated 22 June 2018.
  - The development proposed is the construction of a new house with crossover and parking.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the proposed development on the character and appearance of its surroundings.

### **Reasons**

3. The Council acknowledges that the principle of an addition of a dwelling within a residential area of the city would make a contribution to the supply of housing in the city. In addition, I note from the officer's report that, subject to appropriate conditions, there is no objection on such matters as adequacy of floorspace, access and parking, the effect on ecology, and the living conditions for future occupiers of the dwelling and occupiers of neighbouring dwellings.
  4. This essentially leaves the thrust of the Council's objection relating to siting on the plot, the design and external materials, with the proposed combination of these considered to have a harmful effect on the street scene.
  5. As regards design, I consider that for the most part the appeal scheme successfully deals with achieving the difficult balance of adapting to the constraints of the site's size, shape and 'isolated' position at the end of the cul-de-sac.
  6. In particular, as regards the Council's criticism of the dormers, I am of the view that their distances from the ridge, flanks and eaves of the roof plane would be sufficient for them not to be harmfully over-sized in this particular context. This is because the dwelling would be read in the street scene principally against the
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substantial mass of the adjoining building, including No. 2 Brackenbury Close, which appears to be one half of a pair of semi-detached houses.

7. Accordingly, in order not to appear harmfully out of keeping, the 'front' of the appeal building has to have a width and overall scale that despite the constraints of the plot would comprise a sufficiently substantial built form and presence relative to its neighbours. And whilst the appeal proposal would in fact do this, I also consider that to be in keeping all or most of those elements of the building that face the road should have external materials similar to those used for nearby houses, albeit possibly deployed in a way that would help to mitigate the Council's concern on the visual impact of the dormers. The challenge is whether this can be successfully reconciled with the proposed appearance of the more rearward part of the building. I accept the latter responds appropriately and innovatively to its context and the site's constraints. And unlike the front it would not have the problem of being read with the more traditional appearance of the existing nearby development.
8. A further reservation, and one that in the final analysis I conclude must result in the appeal being dismissed, relates to the detailed design of the main elevation to the built up part of Henge Way. The appeal building would be prominent in long and short views in the approach along this road and indeed draw the eye because it would be correctly perceived as not forming part of the original development. And as the Council's appeal statement says, this elevation lacks primacy with a large area of blank wall and two ground floor windows.
9. I acknowledge that this is not the functional front of the house and therefore does not have a door, but whether or not this aspect of the design remains in an amended proposal I consider that this elevation needs to have a design quality that would justify this development as a 'one off' addition to the more conventional and established estate layout and design.
10. On the main issue, I therefore conclude that insofar as the appearance of the proposed building to Henge Way is concerned, including the choice of materials, the appeal scheme would at present conflict with Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2018 ( I share the appellant's doubts as to the direct relevance in this case of Policy CP12 of the Brighton & Hove City Plan Part One 2016). As the proposal requires some re-design, the conditions suggested by the Council would not address my objections to the proposal.
11. I have carefully considered the many objections to the scheme from local residents, including on matters not covered above. However, I consider that this small triangular site between a footpath and a section of the cul-de-sac head makes only a limited contribution to the amenity of the area. And whilst it may have originally been earmarked for open space, there is no evidence from the Council that this will ever come about.
12. For the reasons explained above, the appeal is dismissed.

*Martin Andrews*

INSPECTOR



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## Appeal Decision

Site visit made on 2 January 2019

by **Tim Crouch MSc DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14<sup>th</sup> February 2019

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**Appeal Ref: APP/Q1445/W/18/3212912**

**Land to the side of 44 Stanley Avenue, Portslade, BN41 2WJ**

- 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 Fowler against the decision of Brighton & Hove City Council.
  - The application Ref BH2018/01305, dated 24 April 2018, was refused by notice dated 21 June 2018.
  - The development proposed is a new one bedroom dwelling ground floor and basement.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The appellant has submitted an updated plan proposing a repositioning of the vehicle car parking space, which also has an effect on the south elevation. I understand that this was submitted to the Council during the application process but not considered. In the absence of Council or third party comment on the plan, and given the level of interest, I have only considered the drawings listed in the Council's decision notice for the purposes of this appeal to ensure that no views are prejudiced.

### Main Issues

3. The main issues are:
  - The effect of the proposal on the character and appearance of the area,
  - Whether the proposal would provide satisfactory living conditions for the future occupants, with regard to light, outlook and private amenity space and,
  - The effect of the proposal on the safety of road users.

### Reasons

#### *Character and appearance*

4. The site comprises part of the end of a block of single storey garaging and an open corner of low level overgrown vegetation to Stanley Avenue. Stanley Avenue rises significantly to the north, curving from its junction with Septon Road to the south up to Chrisdory Road to the north. This gives the site some prominence from the south. The neighbouring detached garage with front framing provides some screening from the north.

5. The existing low height, mono-pitched roof garage block fronts a low key unmade access track which serves the rear gardens of the surrounding roads. It has a narrow single carriageway with overgrown verges. The surrounding housing comprises of predominately traditional, small detached and semi-detached bungalows set within sizeable plots. These features contribute towards the sense of place and are positive characteristics of the area.
6. The proposal is for a modest single storey, flat roof, 2 floor dwelling with basement, on the site of 3 of the garages. It would be contained by a small rectangular shaped plot, with the dwelling occupying around half of the site area. There would be floor to ceiling glazing across almost the full width of the front elevation overlooking the split level outdoor amenity space on the corner with Stanley Road.
7. The proposal represents redevelopment of disused garages and is a brownfield site. However, at around 9 dwellings per hectare more than surrounding dwellings, the higher density of the proposal would be noticeably different to the surrounding lower density. Likewise, the plot size would be conspicuously smaller. Furthermore, having the private garden to the front and the dwelling to rear would be inconsistent with surrounding built forms. As a result, the size, occupation and layout of the plot would appear cramped, incongruous and inappropriate in this specific location.
8. Therefore, the proposal would have a harmful effect on the character and appearance of the area, and it would be contrary to policies CP1, CP12 and CP14 of the Brighton and Hove City Plan Part 1 (March 2016). These policies, amongst other things, seek to raise the standard of design, establish a strong sense of place and reflect the neighbourhood's positive characteristics.

#### *Living conditions*

9. The proposal includes a living space and kitchen at ground floor, with bedroom, bathroom and utility space at basement level. Light to the basement would only be provided by a rooflight above the stairs, and a window to the bedroom. Whilst providing significant floorspace for a 1 bedroom unit, the basement would receive limited levels of natural light owing to the single outlook to the east onto the partly covered outdoor space, set at an angle and below ground level. To my mind, this would be an oppressive and gloomy outlook to the detriment of its future occupiers.
10. The outdoor amenity space would be split into 2 levels to make provision for both floors. However, the basement level would be below the neighbouring ground level and thus receive lower levels of natural light, despite its orientation. Moreover, owing to the low height boundary treatment proposed and the location of the space being adjacent to the footpath, views from pedestrians into the private garden area would be readily achievable. The outdoor amenity space would therefore lack sufficient privacy for it to be used as a private space, and thus its usability would be compromised
11. Consequently, these factors lead me to conclude that the proposal would provide unsatisfactory living conditions for the future occupants contrary to policies QD27 and HO5 of the saved Brighton and Hove Local Plan (BHLP) (July 2008). These policies, amongst other objectives, require development to provide suitable amenity for its future users in terms of outlook and light and for amenity space to be private and useable.

### *Safety of road users*

12. The proposal includes a parking space that would be set forward and at right angles to the adjacent retained garages. This would create an awkward relationship and restrict visibility for the closest garage when the parking space is occupied. Drivers accessing the garages would be required to carry out awkward manoeuvres in order to pass the proposed parking space, particularly when accessing or egressing the adjacent garage. Therefore, given the location, position and resultant visibility concerns, this parking space would compromise the safety of other road users.
13. I note that the Council is also concerned regarding the proposed overhang of the building. However, this would be above an access ramp and enclosed adjacent to the neighbouring garage, to approximately the same dimensions. Therefore given the associated ground level structure with handrail and the enclosure, this structure would be prominent and I am not convinced would increase danger to other users of the access. However, this would not outweigh the overall harm I have found to the safety of road users.
14. The proposal taken as a whole would therefore be contrary to Policy TR7 of the BHLP which seeks to ensure that developments do not increase danger to other highways users.

### **Other Matters**

15. A list of planning permissions at other sites, presented as similar to the proposal has been supplied by the appellant. However, I have very limited details of those developments, and as each proposal must be considered on its own merits, I give this matter little weight.
16. The proposal would contribute to housing supply, is in an accessible location and would modestly contribute to the economy through construction and local spending. However, these other matters do not overcome the harm that I have identified.
17. I have had significant regard to the comments from interested parties. However, as I am dismissing the appeal, nothing turns upon these matters.

### **Conclusion**

18. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Tim Crouch*

INSPECTOR







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# Appeal Decision

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

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

**Decision date: 30 January 2019**

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**Appeal Ref: APP/Q1445/X/17/3192323**

**22 Middleton Avenue, Hove BN3 4PJ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Andrew Harmer against the decision of Brighton & Hove City Council.
  - The application, Ref BH2017/02609, dated 1 August 2017, was refused by notice dated 31 October 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 described as proposed roof alterations comprising hip to gable extension and rear dormer extension.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Section 192(2) of the Town and Country Planning Act 1990 (the Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. Applying the terms of s192(2) of the Act to the appeal proposal, the Council has determined the application against the provisions set out in Schedule 2, Part 1, Classes A, B, C and G of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO).

## Reasons

3. The appeal relates to a semi-detached house. The appellant proposes to enlarge the main roof area to provide a loft room and an additional bathroom. This would involve changing the side of the roof from a hip shape to a half hip shape as well as the addition of a rear dormer and front roof lights. The Council advise that the site does not lie within a conservation area and there are no Article 4 Directions covering the area.
4. The principle point at issue is the Council's determination that as a result of the works part of the house would extend beyond the plane of an existing roof slope which forms the principal elevation of the house and which fronts the

- highway. The Council accepts that, in all other respects, the proposed development would accord with the limitations set out in Classes A, B, C and G of the GPDO and I see no reason to take a different view.
5. The appellant's drawings show that the house has a staggered frontage overlooking the highway. The principal elevation therefore includes more than one roof slope facing in the same direction. In this case the principal elevation not only includes the wall of the lounge/master bedroom but also the wall of the hot water cylinder (HWC) cupboard next to the third bedroom. As such, the principal roof slopes are the forward facing main roof and the roof over the third bedroom/HWC cupboard. The new roof would extend in front of the forward facing roof plane over the third bedroom/HWC cupboard and, as such, I consider the development would not be permitted development (PD). This is because the wording in paragraph B.1(c) of the GPDO states that development is not permitted by Class B if *any* (my emphasis) part of the house would, as a result of the works, extend beyond the plane of *any* existing roof slope which forms the principal elevation of the house and fronts a highway.
  6. The Department for Communities and Local Government published 'Permitted development rights for householders, Technical Guidance' (TG) in April 2017. It provides an explanation of the rules on PD for householders, what these mean and how they should be applied in particular sets of circumstances. It sets out (pages 34 and 35) 'The principal elevation could include more than one roof slope facing in the same direction. For example, where there are large bay windows on the front elevation, or where there is an 'L' shaped frontage. In such cases, *all such roof slopes will form the principal elevation* and the line for determining what constitutes 'extends beyond the plane of any existing roof slope' will follow these slopes'. I find that the Council's approach to determining this application reflects this guidance.
  7. The appellant submits the third bedroom/HWC cupboard is set back almost 5m from the lounge/master bedroom wall and only has a width of 2m. It is obscured by the mono pitch roof of the garage and the external finish matches the side wall of the house, not the front lounge/master bedroom wall. As such, it is a secondary feature and does not form part of the principal elevation. This conclusion is reached following an analysis of the second diagram on page 15 of the TG. However, it is my view that this diagram and the one above have been included for illustrative purposes only and are not drawn to scale. Moreover, they are there to illustrate the text in the TG which in turn has been provided to give an explanation of the rules on PD. There is nothing within the wording of the GPDO itself which lends support to the appellant's argument or to his interpretation of the GPDO. Furthermore, the determination as to whether the development is lawful or not is made on a plain reading of the legislation itself and not any accompanying guidance, which only assists with understanding the rules.
  8. To summarise, whilst the proposed development would accord with the majority of the limitations set out in Classes A, B, C and G of the GPDO, it would not comply with paragraph B.1(c). Overall therefore the proposed extension would not benefit from the PD set out in Schedule 2, Part 1, Class B of the GPDO.

## **Conclusion**

9. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed roof alterations, comprising a hip to gable extension and a rear dormer extension, was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

*D Fleming*

INSPECTOR





## Appeal Decision

Site visit made on 10 January 2019

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

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

**Decision date: 01 February 2019**

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### **Appeal Ref: APP/Q1445/W/18/3208082**

### **106 Montgomery Street, Hove BN3 5BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Gail Hopkins against the decision of Brighton & Hove City Council.
  - The application, Ref. BH2018/00202, dated 9 January 2018, was refused by notice dated 1 June 2018.
  - The development proposed is the demolition of the existing lower ground floor extension and erection of a two-storey rear extension to the ground and lower ground floor flats.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues are (i) the effect of the proposed extension on the character and appearance of the host property and the wider terrace, and (ii) the effect on the living conditions for adjoining occupiers at Nos. 104 and 108 as regards outlook and light.

### **Reasons**

3. On the first issue, the Council's concern is that the existing terrace shares a consistent building line above basement floor level and that a flat roofed and full width two storey extension would be out of keeping with host building and the wider terrace. Whilst the extension would be on the rear elevation, it would be visible from the rear gardens and windows of properties in Wordsworth Street.
  4. I saw on my visit that in addition to the basement extension at the appeal property and the adjoining No. 108 there are a number of 'hanging' first floor extensions to the west, as indeed the officer's report acknowledges. There also appear to be some ground floor extensions to both sides, albeit it was impossible on my visit to have a clear and unobstructed view of the whole terrace.
  5. However, given the substantial length of the terrace, about 20 properties, I am satisfied that the extended ones are in the minority, and I consider it safe to conclude that the character and appearance of the area has not changed significantly from being mainly in the form of the buildings as originally constructed. Moreover, there is no evidence that the extensions that have been built have been formally approved through the planning system.
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6. The grounds of appeal refer to, and supply photographs of, two storey extensions in nearby Wordsworth Street and Westbourne Street, but again there is insufficient evidence that these are in numbers that have altered the predominant character and appearance of the area as being defined by the buildings being in, or close to, their original built form.
7. If I were to allow the appeal, it would be difficult for the Council in all fairness to refuse permission for other similar applications, and because of the large number of buildings and terraces in the city there would be a cumulative erosion of character and appearance to the detriment of the city's townscape.
8. On this issue, I therefore conclude that the proposal would have a harmful effect on the character and appearance of the building and the wider terrace. This would conflict with Policy QD14 of the Brighton & Hove Local Plan 2005; the Council's Design Guide for Extensions and Alterations SPD 12 adopted in 2013, and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2018 ('the Framework').
9. Turning to the second issue, the effect on adjoining occupiers, the officer's report argues that the proposed extension would project out very close to the lower ground and first floor rear facing windows of No. 104 and the rear first floor windows of No. 108. It is considered that this proximity would restrict the outlook from the rooms concerned and restrict the light to them.
10. However, the grounds of appeal cite the 45 degree rule to show that because the living room window of No. 108 is on the far side of the elevation, the corner of the 3m depth extension would not interrupt the 45 degree line. I accept that the effect on outlook and light in this case would be less and likely to be acceptable.
11. Conversely however, as the living room window at No. 104 is very close to the proposed extension the 45 degree line would be broken, and I do not agree with the appellant that this would be 'only marginal'. Furthermore, I accept the Council's view that the very limited amount of outdoor amenity space at No. 104 would suffer an undue effect of enclosure from the slightly deeper and substantially higher building than is currently at the appeal property.
12. On this issue I conclude that there would be a harmful conflict on the living conditions for the occupiers of No. 104 and the relative absence of harm to No. 108 would not outweigh this conflict with Policies QD14 & QD27 of the 2005 Local Plan, the Council's SPD and paragraph 127f) of the Framework. As regards the SPD this specifically advises that '*Two storey (or more) extensions to terraced properties will generally be unacceptable owing to their close proximity to neighbouring properties and their windows*'.
13. Overall, I am satisfied that the Council's current adopted policies and guidance preclude the proposed addition to the appeal building and the wider terrace, notwithstanding that, as in this case, extensions can improve the space standards and the living conditions for the occupiers. For this reason, as explained in more detail above, the appeal is dismissed.

*Martin Andrews*

INSPECTOR



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## Appeal Decision

Site visit made on 18 December 2018

by **Tim Crouch MSc DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6<sup>th</sup> February 2019

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**Appeal Ref: APP/Q1445/W/18/3207374**

**Garages Rear of 187 Kingsway, Hove, BN3 4GL**

- 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 Welstead Properties Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/03293, dated 28 September 2017, was refused by notice dated 1 February 2018.
  - The development proposed is demolition of the existing garages and erection of 2no 2-storey dwellings plus basement level.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

#### *Site Address*

2. The application form provides the site address postcode as 'BN3 4GJ'. However in subsequent documents it appears as 'BN3 4JL'. The latter is more accurate so I have used this in my decision.

#### *Amended plans*

3. The appellant has provided amended plans as part of the appeal process. The plans primarily increase the size of the lightwell to the basements by moving the retaining wall to the edge of site. This also moves the front walls above ground forward to the boundary of the site.
4. The Council has considered the amended plans as part of its submission and has confirmed that it has no objection to their inclusion. I am aware that there were no third party representations to the planning application or to the appeal itself. Given the nature of the changes, the Council's confirmation and the clear statements from those that have been consulted, I do not consider that any interests would be prejudiced and have therefore considered the appeal on this basis.

### Main Issues

5. The main issues are the effects of the proposal firstly, on the character and appearance of the Sackville Gardens Conservation Area, and secondly, on the living conditions of future occupiers with particular regard to light and outlook.

## Reasons

### *Conservation Area*

6. The appeal site is located to the rear of 187 Kingsway and fronts onto Sackville Gardens. It is within the Sackville Gardens Conservation Area. The existing row of six adjoining single storey garages is set back from the pavement with an area of hardstanding to the front. The proposal would replace these with two semi-detached properties of 2-storeys, with a basement level, and two car parking spaces. The proposal would also front Sackville Gardens.
7. The Council's Sackville Gardens Conservation Area Character Statement identifies that nearly all of the buildings in the Conservation Area are in residential use, with a tall frontage to the sea and a lower scale behind. I observed this on my site visit. Kingsway provides a grand scale frontage to the sea, sky and gardens at Western Esplanade. Set behind, separated by characterful gaps, are north-south routes, including Sackville Gardens. These are quieter with straight, wide roads with mainly tall 2-storey, elevated Victorian terraced and semi-detached dwellings. These have traditional features, proportions and a strong building line, set back with small front gardens.
8. The site forms part of the rear of the grand property at No 187, which presently provides ancillary car parking. I have been provided details of a previous appeal<sup>1</sup> for a larger scheme dismissed in 2015. Like that Inspector, I also saw that although the garages do not contribute aesthetically to the architecture of the street, as existing low, flat roofed single storey structures, they do form part of the open character that exists between the adjacent taller buildings and as development turns the corner from Kingsway into the streets it services.
9. The proposed development is located close to the rear of No 187, with parking located to the north retaining some ground level gap to 1 Sackville Gardens. The proposed dwellings would be set down with reduced height and of a contemporary design, featuring a lightwell frontage and bridged walkway. I note the appellant's view that the proposal should be considered in the context of an ancillary relationship to the grandeur of No 187, that mews style development is not uncommon, and that the site is within a boundary within the character of the area linked to the grand frontage. However, the proposed dwellings would be clearly independent, exacerbated by the sharp modern appearance. Despite the proximity and historical link to No 187, these would be clearly read as forming part of the character and appearance of Sackville Gardens. This would be reinforced by the partial set back building line and some design references to the Victorian features of the street.
10. The proposal would be a reduced height two storey dwelling and include an asymmetric roof form, with flat ridge, set forward of the established building line within Sackville Gardens. Whilst trying to retain the open character of this immediate area, and add architectural variety, the scale, design and positioning close to No 187 would appear cramped and out of keeping with the wider streetscene. This would be prominent given its positioning forward of the dwellings to the north.

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<sup>1</sup> Appeal reference APP/Q1445/W/15/3007084



11. Furthermore, whilst modern and considered in design, the proposal includes many features which do not reflect the wider area. The scale of windows, deep light wells and bridged walkways do not complement the character and appearance of the Conservation Area. Details have been provided of the approved Sackville Hotel re-development scheme opposite the appeal site. Whilst this represents a more modern design, it does not appear to include these features and has yet to be built. It therefore does not support the design proposed for the appeal site.
12. Due to the scale, location and design, the proposal would fail to preserve the character or appearance of the Conservation Area. Whilst the harm to the Conservation Area as a whole and its significance would be less than substantial, other than the addition of two units of accommodation no other public benefit has been presented to me. In this context I am not persuaded that this would represent a public benefit that would outweigh that harm that I have identified. Consequently, the proposal is contrary to policies CP12 and CP15 of the Brighton and Hove City Plan Part 1, and HE6 of the Brighton and Hove Local Plan (Local Plan). These policies seek to ensure, amongst other objectives, that development preserves or enhances the character or appearance of the area.

*Living conditions*

13. The proposal would include bedroom accommodation at first floor and basement, with living rooms at ground level. The first floor bedrooms would be in the roof space, with angled roof, limited full head height and single window provided by a low level dormer. Whilst sloping ceilings are not unusual and the floor area is not inadequate, the particular relationship of two sloping ceilings, limited area of full roof height and a low single window opening would produce the feeling of cramped and unsatisfactory living conditions.
14. The lower ground floor bedrooms would have single aspect outlook onto the retaining walls. Whilst substantial windows, and the distance to the retaining wall has been increased in the amended plans, these would be the only windows serving the bedrooms and would only view the tall retaining walls, framed by the underside of the modern bay window design above. Despite the increase in distance to the walls, the overbearing impact would still be substantial. A further impact would be the increase in perceived overlooking from pedestrians in Sackville Gardens looking directly into the private bedroom space. This would be likely to result in measures by future occupiers to obscure this and increase privacy, further eroding the outlook from within the room.
15. The amenity space serving the proposed southernmost unit has been increased in the amended plans. This now affords more light to the area, similar to the original area for the northernmost proposed dwelling, to which the Council had no objection in relation to natural light. Therefore, whilst this does not override the harm above, it does address this particular issue.
16. Consequently, taken as a whole, the proposal would produce inadequate accommodation to meet the likely needs of future occupiers contrary to Policy QD27 of the Local Plan which, amongst other things, seeks to prevent a material loss of amenity to proposed occupiers.

**Conclusion**

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

*Tim Crouch*

INSPECTOR



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## Appeal Decision

Site visit made on 4 December 2018

by **Paul T Hocking BA MSc MCMi MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 January 2019

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### Appeal Ref: **APP/Q1445/W/18/3202383** **145 Sackville Road, Hove BN3 3HD**

- 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 Jalal Darroudi against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/03523, dated 20 October 2017, was refused by notice dated 8 January 2018.
  - The development proposed is a change of use from A2 to A5 and installation of extraction system.
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### Decision

1. The appeal is allowed and planning permission is granted for a change of use from A2 to A5 and installation of extraction system at 145 Sackville Road, Hove BN3 3HD in accordance with the terms of the application, Ref BH2017/03523, dated 20 October 2017, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; DP3094/JC/RG/01; DP3094/JC/RG/02; DP3094/JC/RG/03; DP3094/JC/RG/04; DP3094/JC/RG/05.
  - 3) The use hereby permitted shall not be carried out except between the hours of 1100 and 2200 on Mondays to Sundays, including Bank or Public Holidays.
  - 4) Noise associated with plant and machinery incorporated within the commercial development shall be controlled such that the Rating Level, measured or calculated at 1 metre from the façade of the nearest existing noise sensitive premises shall not exceed a level of 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:2014.

### Procedural Matter

2. The Revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The parties have been given the

opportunity to comment on the implications of the revised guidance on the appeal and I have also taken it into account in determining the appeal.

### **Main Issue**

3. The main issue is the effect of the extraction system on the character and appearance of the area.

### **Reasons**

4. The appeal proposal is for a change of use from A2 (financial and professional services) to A5 (hot food take-away) along with the addition of an extraction system at the rear of the premises. The Council do not object to the principle of the change of use having refused the proposal solely on the basis of the extraction system.
5. The appeal site comprises a unit within a parade, predominantly of shops, but also with estate agent, hairdresser and restaurant. The parade itself is formed of a three storey building with residential accommodation above the ground-floor units. To the rear, the appeal site is accessed via Conway Place a short stretch of road that terminates close to the appeal site. There is also a large commercial warehouse and block of flats within the immediate environs of Conway Place. Therefore the area has a mixed and varied character and appearance.
6. The rear of the parade, which is rendered, is fairly typical of an arrangement which comprises shops/units with residential accommodation above. It is therefore quite unevenly fenestrated with a number of small extensions and accesses as well as some limited car parking in the road.
7. I find the scale, positioning and height of the extraction system to be commensurate in appearance as it would exit the building from a ground floor lean-to and run parallel alongside two small windows and finish at a lower height than the ridge line of the building. Given the overall context of the appeal site I conclude the addition of the extraction system would not be harmful to the appearance of the building nor would it appear out of place in the area which has a varied character and appearance.
8. In reaching these conclusions I acknowledge the comments with regard to an extraction system at the rear of No 147 Sackville Road. However, irrespective of whether this has planning permission or not, even if it was not in place the character and appearance of the area would remain mixed and varied.
9. The extraction system would therefore accord with saved Policy QD14 of the Brighton and Hove Local Plan, as retained in March 2016, as well as Policy CP12 of the Brighton and Hove City Plan Part One - Brighton and Hove City Council's Development Plan, March 2016, owing to its scale, positioning and height. These policies, amongst other things, require proposals to respect the urban grain and secure well sited development in the interests of protecting the character and appearance of the area. For the same reasons the proposal would also accord with the good design aims of the Supplementary Planning Document 12 – design guide for extensions and alterations.

### **Other Matters**

10. I acknowledge that concerns were raised by interested parties in respect of the principle of the use, light and noise pollution and litter. These matters are however not disputed between the Council and the appellant. The appeal site is within a parade of commercial premises and in close proximity to a busy road and I have no substantive evidence that the appeal proposal would cause more environmental harm or disturbance. I concur with the Council that subject to conditions, the proposed use of the appeal site would not harm the living conditions of nearby residents.

### **Conditions**

11. The conditions are those which have been suggested by the Council. In addition to the standard timescale condition I have imposed a condition to ensure the proposal is carried out in accordance with the approved details in the interests of certainty.

12. I have also imposed conditions to ensure the premises are only open during reasonable hours and noise emissions are kept to acceptable levels in the interests of safeguarding the living conditions of nearby residents.

### **Conclusion**

13. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal should be allowed.

*Paul T Hocking*

INSPECTOR





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## Appeal Decision

Site visit made on 28 November 2018

**by N A Holdsworth MCD MRTPI**

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

**Decision date: 23 January 2019**

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**Appeal Ref: APP/Q1445/W/18/3201743**

**81A Shirley Street, Hove, BN3 3WH**

- 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 James Summers of Summers Fabrications Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/03631, dated 30 October 2017 was refused by notice dated 23 February 2018
  - The development proposed is demolition of derelict light industrial/storage buildings and construction of four terraced mews houses with cycle parking and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of derelict light industrial/storage buildings and construction of four terraced mews houses with cycle parking and landscaping at 81A Shirley Street, Hove, BN3 3WH in accordance with the terms of the application, Ref BH2017/03631, dated 30 October 2017, subject to the attached schedule of 10 conditions.

### Main Issues

2. The main issues are the effect of the development on
  - i) The character and appearance of the area;
  - ii) The living conditions of the occupants of existing neighbouring residential properties, with particular regard to whether or not the proposal would lead to an unacceptable loss of privacy or an overbearing effect; and
  - iii) The living conditions of future residents, with particular regard to whether or not the size and internal layout of the proposed residential accommodation would provide a satisfactory living environment.

### Reasons

#### *Character and appearance*

3. The site comprises a two storey industrial building, set in a yard between two rows of older style residential properties. These surrounding properties are 2-3 storeys in height beneath a pitched roof. They are arranged in terraces close to the street, with small rear gardens, some of which abut the appeal site.
4. The proposed building on the site would rise to 3 storeys in height, although the top storey would be disguised as it would be set within a pitched roof. On the evidence before me the total height of the new building would be lower

than the 2 rows of residential buildings it sits between. Whilst it would be slightly higher than the existing building the increase in height, estimated at 0.4 m by the Council, would be minimal.

5. The extent of excavation proposed is limited, with the front forecourt being set at a broadly similar level to the rear gardens of the properties facing Shirley Street, beyond the immediate boundary of the site. Overall, in terms of scale and mass, the proposal would reflect the residential buildings that surround it. The pitched roof above the building would have similar proportions to the buildings to each of its sides, and would not appear unduly small or contrived. The manifestations of the living accommodation within it would be limited to roof lights which would occupy a small proportion of the roof. The building would have a contemporary appearance with narrow windows, however this is appropriate given its well contained, backland location.
6. I have had regard to a historic planning appeal decision on the site<sup>1</sup>. However, this involved the creation of a new commercial building, rather than a residential building. It appears larger than the building now proposed, with 3 full storeys and extensive fenestration facing the residential properties on Shirley Street. The changes to the fenestration and roof design mean that the proposal before me would be less visually intrusive and dominant in views from the site and surrounding area. It would respect the sensitive backland location of the site and would relate well to the neighbouring residential buildings.
7. These considerations lead me to the view that there would be no harm to the character and appearance of the area, arising from this proposal. It complies with policy CP12 of the Brighton and Hove City Plan Part One (2016) ("City Plan"), which seeks to, amongst other things, ensure new development raises the standard of design in the city and respects the diverse character and urban grain of the city's identified neighbourhoods.

#### *Living Conditions (existing residents)*

8. The existing industrial building faces the rear of the properties along Shirley Street at close range. It includes windows at first floor level, which directly overlook these residential properties. Whilst the facility has not been used for many years, it could be bought back in to use. Were this to be the case, these residential properties along Shirley Street would be directly overlooked by an industrial building.
9. Consequently, whilst there would be windows in the proposed building that overlook the properties on Shirley Street, in terms of privacy the situation would not be materially worse than the current position. The rooflights on the front of the building at second floor level would be set at an angle and would not lead to intrusive overlooking. Considering the rear of the building, towards Livingstone Road, there is currently a window that directly overlooks the surrounding rear gardens, which would be removed. There would be roof lights in the rear roof slope of the proposed building, but these would be set at an angle and would not be a significantly intrusive feature when viewed from these neighbouring properties. The appellant does not object to a condition requiring these, along with the west facing roof lights, to be made from obscure glass, which would avoid any perceived loss of privacy.

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<sup>1</sup> APP/Q1445/A/07/2060632



10. The proposal reflects an existing close relationship between buildings on the appeal site, and those in the surrounding area. The increase in height and bulk associated with the proposed building is very limited, when compared with the existing situation. These considerations lead me to the view that the proposal would not be unduly overbearing on the neighbouring residential properties.
11. In my experience, the potential for noise and disturbance from the proposed residential buildings, including the access and amenity space, is significantly less than the existing industrial use were it to be resumed. The residential use of the site would accord with the surrounding domestic environment. It would also overcome the concern, expressed by the previous planning Inspector, of the potential for a larger light industrial operation being carried out on the site and consequential noise and disturbance.
12. These considerations lead me to the view that there would be no harm to the living conditions of the occupants of surrounding residential buildings through an overbearing effect or loss of privacy, as a consequence of this development. In this regard there is no conflict with saved policy QD27 of the Brighton and Hove Local Plan (2005) ("Local Plan"), which requires that, amongst other things, planning permission will not be granted where it will cause loss of amenity to existing residents.

*Living conditions (future residents)*

13. The proposed second floor would be set within the pitched roof, and would therefore have restricted height across part of the floor. However, there would be sufficient headroom on this floor to provide some useable living space. The Council argue that the limited habitable area on the top floor means that the proposed units fall below the required floor area for a 4 person, 2 bedroom unit, as set out in the Technical Housing Standards - Nationally Described Space Standards ("NDSS"). However, the planning policies referred to by the Council in its reasons for refusal do not appear to enact the NDSS.
14. The units are narrow, which means that a significant proportion of the space within them is used as hallways and staircases. However, this is not unusual in townhouse style accommodation. Each unit would have well sized, functional rooms on ground and first floor level with appropriate circulation space, plus additional accommodation in the roof. The accommodation would benefit from natural light and outlook, and the landscaped space at ground floor level would provide a degree of privacy to the proposed residential accommodation. There is likely to be sufficient storage space within each dwelling.
15. I therefore consider that the proposal maximises the potential of this well located, previously developed site in central Hove for residential accommodation. It does not comply with the NDSS, but a reasonable standard of living accommodation would nonetheless be provided. I conclude that the size and internal layout of the proposed residential accommodation would provide a satisfactory living environment, and the effect on the living conditions of future occupiers would be acceptable. In this regard there is no conflict with saved policy QD27 of the Local Plan, which requires that, amongst other things, planning permission will not be granted where it would cause loss of amenity to proposed residents.

### *Other Matters*

16. Any disruption from building works would be temporary, and such works would need to be carried out in accordance with relevant legislation. Concerns about building works affecting boundary walls, together with rights over land including future access arrangements are a private matter, is also dealt with under other legislation. The vehicular movements and parking pressure in the local area arising from this residential development is likely to be less than the existing industrial use of the site, were it to be resumed.

### **Conditions**

17. Conditions are necessary to comply with legislation [1] and in the interests of certainty [2]. Given the industrial use of the site a condition is necessary to ensure that any contamination, including asbestos, is dealt with appropriately [3] and given the risks to human health it is essential that such studies are undertaken prior to works commencing on site. The appellant has agreed to this condition. Conditions are also necessary in the interests of ensuring a satisfactory standard of development that is sympathetic to the character and appearance of the area [4 and 5], and to enact relevant optional standards in relation to accessible dwellings [6], energy efficiency [7], and water consumption [8] which are, on the evidence before me, reflected in the requirements of development plan policies.
18. The proposal is located in close proximity to other residential properties, and has been justified by its limited size and the fenestration incorporated in to the design on each of its elevations. Consequently, a condition removing permitted development rights for future alterations to the proposed building is exceptionally justified [9]. A condition requiring the roof lights facing towards the north and west to be made from obscure glass is justified in the interests of protecting the living conditions of surrounding residents [10]. In some cases I have amended the Council's suggested wording, to comply with national planning policy on the use of planning conditions.
19. Sufficient detail is shown on the plans of landscaping, refuse and cycle parking facilities within the development, and further details of such items are not necessary to make the development acceptable in planning terms. Conditions are suggested that would require highway improvements in the surrounding area, and to limit the ability of future occupiers to apply for parking permits. However, the evidence before me does not demonstrate that the absence of such measures would lead to unacceptable harm to the free flow of traffic, highway safety or the wider residential environment.

### **Conclusion**

20. The proposal is acceptable and, subject to conditions, complies with the development plan. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should succeed.

*Neil Holdsworth*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: AC017/010; AC017/011; AC017/012; AC017/013; AC017/014; AC/017/015; AC017/016; AC017/017; AC017/018.
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. Contamination, for the purposes of this condition, shall include the risks posed by any asbestos that may be found on the site. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 90 days of the report being completed and approved in writing by the local planning authority.
- 4) 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. The development shall be carried out in accordance with the approved details.
- 5) No part of the development hereby approved shall be occupied until the cycle parking facilities, refuse and recycling facilities and landscaping details shown on plan number AC017/011 have been installed.
- 6) 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.
- 7) 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).

- 8) 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.
- 9) No extension, enlargement or alteration to the dwellinghouses hereby approved, or provision of buildings etc incidental to the enjoyment of the dwellinghouse within the curtilage of the dwellinghouses hereby approved, as provided for within Schedule 2, Part 1, Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification) other than that expressly authorised by this permission shall be carried out without planning permission obtained from the Local Planning Authority.
- 10) The rooflights on the building hereby approved facing towards the north and west shall be made from obscure glass and fixed shut prior to the first occupation of the development. They shall be maintained as such thereafter.

**END OF SCHEDULE**



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## Appeal Decision

Hearing Held on 18 December 2018

Site visit made on 19 December 2018

**by R.W Allen B.Sc (Hons) PGDip MRTPI**

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

**Decision date: 24<sup>th</sup> January 2019**

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### **Appeal Ref: APP/Q1445/W/18/3192649 1-3 Ellen Street, Hove BN3 3LN**

- 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 Matsim Properties Limited against the decision of Brighton & Hove City Council.
  - The application Ref BH2016/02663, dated 15 July 2016, was refused by notice dated 7 July 2017.
  - The development proposed is demolition of existing commercial units to provide a mixed use development comprising 188 residential apartments, 1,988 sqm of office space and 226 sqm of retail space.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the demolition of existing commercial units to provide a mixed use development comprising 186 residential apartments, 1,317 sqm of office space and 228 sqm of retail space at 1-3 Ellen Street, Hove BN3 3LN in accordance with the terms of the application, Ref BH2016/02663, dated 15 July 2016, subject to the conditions set out in the Schedule of Conditions at the end of this decision.

### **Application for Costs**

2. An application for costs was made by Matsim Properties Limited against Brighton & Hove City Council. This application is the subject of a separate decision.

### **Preliminary Matters**

3. The main parties confirmed at the Hearing that the quantum of residential units and the floor space for the commercial elements of the scheme before me differs from that originally sought, which is set out in the banner heading above. This is because the design evolved during the application stage. I have subsequently determined the appeal on those changes.
4. Common ground exists between the main parties in respect of the forecast revenues and costs associated with the commercial elements of the proposed development. As no other party has raised any concerns, I am content to accept these as correct and I make no further finding on them in my decision.
5. Prior to the Hearing, I noted a number of errors and inconsistencies between the stated plans as set out in the Council's decision notice; the plans as listed in suggested condition (2); and those plans before me. I requested the parties

correct these anomalies, and I have taken the post-Hearing submissions into consideration in my decision.

6. A Legal Agreement under s106 of the Town and Country Planning Act 1990 (as amended) was submitted at the Hearing which provides for financial contributions towards local facilities and infrastructure. Further consideration is given to this later in this decision.

### **Main Issue**

7. The main issue is whether or not the proposed development would make adequate provision for affordable housing.

### **Reasons**

8. City Plan<sup>1</sup> policy CP20 requires the provision of affordable housing for new residential development on sites of five dwellings or more. The policy's starting position is for a 40% onsite provision, but that in itself may be flexibly applied where the Council considers this to be justified, and having regard to five criteria. The main parties agree that the Council reduced its initial requirement of affordable housing to 25%; which is its current position. While it offered 18.8% at the application stage, the appellant is offering 10% affordable housing for the appeal.
9. The main parties hold differing views as to the gross development value (GDV) of the proposed residential flats. The appellant states that its valuation was undertaken and reviewed by a local property agent in 2017 and was specific to the site and the immediate area. Valuations were calculated by applying a price per-square-foot (ppsqf) or price per-square-metre (ppsqm) for each unit, taken on a floor-by-floor and a block-by-block assessment. The appellant further states that it has accounted for uplift in value by applying the UK House Price Index data supplied by the Land Registry. This, the appellant says, contributes towards the different and fluctuating GDV figures set out in its January and August 2018 viability reports; why the latter is a lower value than the former; and why the affordable housing offer has been reduced.
10. I share the Council's view that the appellant could have provided an updated valuation for the appeal. This I find would have been helpful not only in ascertaining a clearer picture on the likely sales values of the proposed units at the time of the appeal, but also how they would compare against the 2017 assessment and against other developments in the locality as identified by the Council. Having said that, the Council has not suggested, and I have read and heard little evidence which casts doubt that the appellant's approach has been incorrect or misleading; indeed the Council itself cites the UK House Price Index data in its own evidence.
11. I acknowledge the Council's alternative revenue calculations of the proposed units, based on sales data of other new developments coupled with local market trends, are indeed a useful barometer in ascertaining the likely going rate for new residential development. However, I do not find the proposal can be solely judged on this, and the evidence of a local expert for the appeal site itself must in my judgement hold the greater weight, particularly in the absence of any directly comparable evidence to the contrary.

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<sup>1</sup> The Brighton & Hove City Plan Part One – Brighton & Hove City Council's Development Plan March 2016



12. I do not find that the ppsqf/ppsqm values on those other developments cited by the Council are significantly adrift of the appellant's. But in any event, I do not have the specific details to be able to conclude with any degree of clarity or certainty as to the circumstances which warranted the higher values at those sites, and whether they would be realistic or justified for the appeal site. I therefore accept the possibility, as advanced by the appellant, that the particular surroundings of the appeal site may indeed have a bearing on market revenues for the proposed units compared with other nearby developments, or indeed that those cited locations advanced by the Council may be in more sought after areas which may have had a bearing on elevating those values.
13. In the same way, I am satisfied that the appellant's assessment does validly take account of, and as such calculates the appropriate increased ppsqf and ppsqm value on the units on the upper floors, and this is consistent with the written and oral evidence from both parties regarding the increased values of residential units the higher up they are.
14. Notwithstanding the discrepancies identified by the Council between the drawings and the stated floor areas of the proposed units, I am satisfied that overall the differences are very small and have occurred through an exercise of rounding up and down, and conversion between imperial and metric calculations. I am also satisfied that the financial evidence advanced by the appellant is based on the total floor space as agreed by both parties in the statement of common ground. Therefore for those reasons, I afford the appellant's GDV with greater weight.
15. Construction and other costs associated with the proposed development are another area of dispute between the parties. The appellant states that its construction cost plan has been assessed specifically for the appeal site. The Council relies on the Building Cost Information Service (BCIS) database, but my attention has been drawn, both in written evidence and at the Hearing, to the BCIS guidance notes and in particular its conditions of use; wording of which was not disputed by the Council at the Hearing. This states that the BCIS database should not substitute specific site analysis undertaken from a qualified person.
16. The Council argues that, amongst other things, the appellant's cost plan is lacking in supporting data; has been assessed on incomplete information; and relies on estimated allowances to fill in voids in information. Even if I accept this to be true, little evidence is before me which persuades me that it is not nonetheless a sufficient and robust document as it currently stands. Being the only site specific cost plan before me, I afford it the benefit of the doubt in my decision.
17. I do however cast doubt of the appellant's contingency costs. Here, the appellant considers 10% is reasonable. But, where I am told by the parties that the industry standard is to allow for a 5% contingency, I am not persuaded on the evidence before me that the appellant has sufficiently justified the necessity or reasonableness for this increased provision.
18. I am also doubtful of the appellant's cost allowance for an off-plan sales incentive or discount amounting to a 10% reduction from the market price. The main parties agree that off-plan sales would amount to 50% of the total, and I have no reason to disagree. However, I find little persuasive evidence to

justify its need. Indeed and to the contrary, the Council advances a number of examples, including the opinion of a local agent, which states that no nearby development has undertaken any such off-plan discount.

19. Moreover, given the uncontested evidence advanced by the Council of the dire and pressing housing and affordable housing need in the Brighton housing market area, it seems incredulous to me that the appellant would need to go to such measures to incentivise the sale of the residential units. Indeed, the evidence suggests in fact the opposite would be true, and there would likely be considerable and early interest particularly having regard to its location close to transport hubs and local shops. Notwithstanding the appellant's explanation I find little credibility exists for an off-plan discount.
20. The final main area of dispute between the parties concerns the existing use value (EUV) and the benchmark land value (BLV) of the current site. Notwithstanding its current warehouse usage, the main parties agree that for the purposes of establishing a value, an office use should be considered. This is because two of the existing units now currently either have planning consent<sup>2</sup> or lawful use<sup>3</sup> to be used for offices. The parties informed me at the Hearing that the third unit is subject to an appeal against a failure of the Council to determine an application within the given time period; though the Council stated that it saw no obvious impediment to the change of use being granted. The parties also agree that in establishing the BLV, a 15% incentive should be added to the EUV. In both cases, I have no reason to disagree.
21. Both main parties agree that an office use of the existing building would command £18psf, generating a yield of 6.75%. On the evidence before me of comparable office accommodation achieved in the local area I have no reason to disagree. However, the main parties agree that the appellant's valuation is a discounted rate for prospective tenants prepared to undertake the necessary refurbishment and extensions themselves to facilitate an office use, and thus they would bear the financial burden accordingly.
22. The financial outlay for undertaking such works would not be insignificant regardless of which figure of the main parties I were to accept, and I have grave doubts that any such tenant would be prepared to assume that financial burden. As the Council points out, a prospective tenant would need to be in-situ for a very considerable length of time in order to recoup such costs, and the parties informed me at the Hearing that this would go very much against the grain where the opposite is more common in practice. The appellant has not advanced sufficient evidence where this arrangement has been agreed elsewhere, and I do not find this would be a realistic proposition.
23. The appellant states that if it were to absorb the renovation costs, a price of £28psf would be commanded. But having regard to the evidence of surrounding office rents, I find this probability would be unrealistic and unachievable. Moreover, it would dwarf by some margin the ppsqf for the newly constructed office space to be provided in the proposed development; accommodation of which would in my judgement be arguably superior and more likely to be sought after. I therefore find the appellant's EUV and BLV to be exaggerated, and I find the Council's calculations should be afforded the benefit of the doubt.

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<sup>2</sup> Council reference BH2017/03440

<sup>3</sup> Council reference BH2017/00031



24. Drawing the above matters together and for the reasons given above, I find that the appellant's GDV accounting for a 10% affordable housing provision and its construction costs enjoy the greater weight, but I do have concerns in respect of the appellant's stated other costs associated with contingencies and off-plan sales, and with its BLV.
25. I acknowledge the Council's assertion that any changes to revenues or costs, however small or insignificant they may seem at face value, can have notable effects overall. Notwithstanding, it seems to me that taking the appellant's GDV calculations<sup>4</sup> and applying the lower costs and BLV of the existing site that I find more plausible, the proposed development would nevertheless remain, albeit less severely, in a deficit position.
26. The appellant argued at the Hearing that it was hopeful of drawing on its experience and best practices to lower its construction costs further, as it became clearer what they would be at a more advanced stage in the process. This could allow the scheme to get close to or break even. Applying that same logic to the financial circumstances I have found to be more plausible, it seems to me that there could be an eventuality whereby the same said savings could lead to a surplus financial position. In that circumstance, I am alive to the fact the scheme could potentially provide more affordable housing. The submitted Legal Agreement includes the provision of a review mechanism, and I return to this matter below.
27. Taking the above into consideration, I am satisfied on the evidence before me that the proposed development would support only a 10% affordable housing contribution. This is not inconsistent with the National Planning Policy Framework's (the Framework) minimum expectation<sup>5</sup>. The proposed development would as such comply with City Plan policy CP20, details of which I have given above.

### **Other Matters**

28. The appeal site lies within close proximity to the Hove Station and the Denmark Villas Conservation Areas. The Council states that the nearby Hove Railway Station building is Grade II listed. The main parties do not express an opinion as to the effect of the proposed development on the significance of the heritage assets, and the Council does not raise this as an objectionable matter for the appeal or advance conflict with the development plan on this matter.
29. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard shall be paid to the desirability of preserving or enhancing a listed building or its setting and the character or appearance of that area. From my observations, I find the significance of both is defined by the character and appearance of its buildings, which display a remarkable consistency and regularity in terms of design, use of decorative materials, and layout.
30. I do not doubt that the proposed development would be visible from the said heritage assets, particularly given the height of some of the proposed buildings. However, I am satisfied that the proposed buildings would not be prominent; and they would not dwarf or overwhelm the heritage assets to the extent that their significance would be unduly altered, particularly in the ways

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<sup>4</sup> Paragraph 5.1 of the Appellant's Viability Statement dated August 2018

<sup>5</sup> Paragraph 64

in which they are currently experienced. I do not therefore find that the proposal would considerably harm their character and appearance, and in discharging my statutory duty and I am satisfied that the significance of the heritage assets would be preserved.

31. I have noted concerns raised by residents in respect to the design of the proposed development; the proposed building heights and its quantity and density; and to the effect on their living conditions particularly in regard to outlook and overshadowing. From my observations, I am satisfied that the proposed development would assimilate successfully into its surroundings, and it would be sufficiently distant from surrounding properties not to cause significant harm to the living conditions of the occupiers of those properties. The stated effect on local businesses and infrastructure including traffic has not been substantiated in evidence and I do not consider the matters further in my decision. The Council has not in any event raised any of the above as objectionable matters.

### **Conditions**

32. I have considered the conditions suggested by the Council against the Framework<sup>6</sup>, and made changes necessary to comply with those requirements. I also note that the appellant has given its written acceptance of those conditions which require a discharge of a requirement prior to the development's commencement.
33. I have specified the approved plans so as to provide clarity and certainty as to the scheme approved. A condition relating to materials, landscaping, and the prevention of exposing unsightly cables and pipework et al is necessary to ensure the appearance of the development would be satisfactory. Conditions relating to soundproofing, a noise management plan (which I have merged the suggested two separate conditions into one), and the treatment of any plant or machinery are necessary to protect to the living conditions of the future occupiers of the proposed development from the commercial activities. For similar reasons and to allow the Council to retain control of any potential future use, I find a condition restricting any permitted change of use of the office element of the scheme is also necessary.
34. I am satisfied that conditions for details of the green roofs, green walling, nature conservation measures and bird and bat boxes are necessary in the interests of protection and promotion of biodiversity and wildlife. Conditions for BREEAM demonstration for the commercial elements, water and energy efficiency, surface water drainage, adaptable homes and the plant room future network connection capacity are necessary for a development of this size and scale in order to promote sustainable development and to accord with the site specific requirements in the City Plan.
35. Conditions to investigate potential contamination are necessary in the interests of protecting human health and the water from pollution. However, I find it unnecessary to impose two sets of very similarly worded conditions as suggested by the Council, and I find one set more succinctly put will suffice to discharge both matters. Conditions are necessary to ensure the provision of refuse and recycling facilities, control of deliveries and for adequate parking to ensure no detrimental effect on the local highway network, though I have

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<sup>6</sup> Paragraph 55

condensed a number of these suggested in the interests of brevity and succinctness.

36. I have not carried forward a condition on foul sewerage as no specific planning reason was advanced by either party for its need, and the matter is controllable under other legislation. Little evidence was advanced by the parties for the need for conditions in respect to odour control and I have subsequently not imposed them.

### **Legal Agreement**

37. The Council seeks a legal agreement to secure 10% of the dwellings to be provided as affordable housing, equating to 19 dwellings, as well as a review mechanism. It also seeks a financial contribution towards open space recreation, indoor sports provision, education, public art, local employment scheme and sustainable transport methods. These requirements are duly provided for in the Agreement before me, and neither main party has advanced any objections to it.
38. The Planning Practice Guidance<sup>7</sup> states that review mechanisms contained within legal agreements may be appropriate in such circumstances where contributions are below requirements in policy, and I widen this definition to include areas where some degree of viability uncertainty exists, as is the case here. I take a great degree of comfort in the knowledge that such a provision exists in the signed Legal Agreement before me. This requires a review of the viability of the scheme to be undertaken and a financial contribution to be made in the event of a surplus subsequently being found.
39. Because of my findings above, I am satisfied that it is a necessary requirement of the Legal Agreement, as it would strengthen the Council's ability to seek compliance with City Plan policy CP20 over the lifetime of the project and ensure the appropriate affordable housing provision is made. While I am being invited to do so by the appellant, I do not for the reasons given above exercise my judgement and strike out the said schedule.
40. The Framework<sup>8</sup> says requests for planning obligations must meet three tests, which are: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably relate in scale and kind to the development.
41. On evidence before me, I am satisfied that the Legal Agreement would be consistent with the tests of Framework. I am further satisfied on the evidence before me including those submissions made at the Hearing, that the requirements are site specific and as such would comply with provisions contained within the Community Infrastructure Levy Regulations in respect of pooled contributions.

### **Planning Balance**

42. The main parties agreed at the Hearing that the Council cannot demonstrate a five-year housing land supply. In such circumstances, the Framework's presumption in favour of sustainable development<sup>9</sup> is engaged. This states

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<sup>7</sup> Paragraph 009 Reference ID: 10-009-20180724

<sup>8</sup> Paragraph 56

<sup>9</sup> Paragraph 11d

that where policies which are most important for determining applications are out-of-date, which is the case here by reason of the absence of a five-year housing land supply, planning permission should be granted for development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

43. The main parties are agreed on the benefits of the scheme. The site is designated as a strategic allocation area within the City Plan where policy DA6 C applies. This policy seeks a comprehensive mixed use redevelopment of over the appeal site and wider commercial units along Conway Street. While there are some areas where the appeal scheme differs from the requirements of the policy, the Council confirmed at the Hearing that the proposed development generally accords with it. I have no reason to disagree, and being the first scheme to come forward I acknowledge that the proposed development could in effect kick-start this process of the wider regeneration of this area.
44. It would provide much-needed new market and affordable housing and commercial space, and has the potential to open opportunities for employment during construction and operation stages. I also find that the proposed development would result in an improvement to character and appearance of the area against the existing situation. I attach considerable weight and importance to these benefits.
45. I acknowledge that the level of affordable housing provision where pressing need exists is undoubtedly on the low side. But as I have found on the evidence before me the scheme cannot reasonably provide more. However, the provision of a review mechanism in the Legal Agreement, as discussed above, allows provision for payments to be made should the proposal demonstrate a surplus, and this reduces the any harm in this regard. It would also preserve the significance of the heritage assets.
46. In my judgement, and applying the so-called tiled balance, I find that the adverse impacts of the proposed development do not significantly and demonstrably outweigh the benefits. The proposed development would amount to sustainable development for the purposes of the Framework, and would comply with the development plan as a whole.

### **Conclusion**

47. For the reasons given above I conclude that the appeal should be allowed.

*R Allen*

INSPECTOR

## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:  
15897-PA-010 Rev A; 15897-PA-011 Rev A; 15897-PA-100 Rev C; 15897-PA-101 Rev E; 15897-PA-102 Rev D; 15897-PA-103 Rev D; 15897-PA-104 Rev D; 15897-PA-105 Rev C; 15897-PA-106 Rev C; 15897-PA-107 Rev C; 15897-PA-108 Rev C; 15897-PA-109 Rev D; 15897-PA-110 Rev D; 15897-PA-111 Rev C; 15897-PA-112 Rev B; 15897-PA-113 Rev C; 15897-PA-114 Rev C; 15897-PA-115 Rev C; 15897-PA-116 Rev D; 15897-PA-117 Rev C; 15897-PA-118 Rev C; 15897-PA-200 Rev D; 15897-PA-201 Rev D; 15897-PA-202 Rev D; 15897-PA-203 Rev D; 15897-PA-204 Rev B; 15897-PA-205 Rev B; 15897-PA-210; 15897-PA-211; 15897-PA-212; 15897-PA-213; 15897-PA-250 Rev B; 15897-PA-251 Rev B; 15897-PA-252 Rev B; 15897-PA-253 Rev B; 15897-PA-254 Rev B; 15897-PA-300 Rev B; 15897-PA-301 Rev B; 15897-PA-302 Rev B; 15897-PA-303 Rev B; 15897-PA-304 Rev B; 15897-PA-305 Rev B; 15897-PA-306 Rev B; 15897-PA-307 Rev B; 15897-PA-314; 15897-PA-315; 15897-PA-316; 15897-PA-317; 15897-PA-400 Rev C; 15897-PA-401 Rev C; 15897-PA-402 Rev C; and 15897-PA-403.
- 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 the Local Planning Authority for approval in writing. Development shall be carried out in accordance with those approved details.
- 4) No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.
- 5) Notwithstanding the submitted drawings no development above ground floor slab level of any part of the development hereby permitted shall take place until a scheme for landscaping including its management and maintenance, and a timetable for implementation, has been submitted to the Local Planning Authority for approval in writing. The scheme shall include the following: Details of all hard and soft surfacing, including durability and maintenance; details of all boundary treatments, including durability and maintenance; details of all external plant, machinery, extract flues and vents and their location; details of all proposed planting, including numbers and species of plant, details of size and planting method of any trees and cultivation. Species should be included that mitigate pollution in the gas and particulate phases and wherever possible native species of local provenance should be provided. Development shall be carried out in accordance with those approved details.
- 6) No development shall commence until a scheme for the soundproofing of the building has been submitted to the Local Planning Authority for approval in writing, including enhanced glazing and specially designed ventilation throughout all buildings to enable noise attenuation by closing

windows. The party walls/floors between sensitive receptor units and noisier source uses should be designed to achieve a sound insulation value of 5dB better than Approved Document E performance standard, for airborne sound insulation for floors of purpose built dwelling-houses and flats. A scheme of testing should be carried out post construction but prior to occupation to demonstrate that levels in BS 5228-1:2009+A1:2014 BS5228:2014 parts 1 and 2 are met. The measures shall be implemented in accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.

- 7) The development hereby permitted shall not be occupied until a Noise Management Plan which includes details of the types of vehicles, how deliveries servicing and refuse collection will take place and the frequency of those vehicle movements has been submitted to the Local Planning Authority for approval in writing. All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.
- 8) No development shall commence until a scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration has been submitted to the Local Planning Authority for approval in writing. The measures shall be implemented in accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.
- 9) The hereby permitted office premises shall be used as an office (Use Class B1(a)) only and for no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority.
- 10) No development above ground floor slab level of any part of the development hereby permitted shall take place until details, including a timetable of the construction of the green roofs have been submitted to the Local Planning Authority for approval in writing. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and completed shall be retained as such thereafter.
- 11) No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the proposed green walling together with its maintenance and irrigation programme has been submitted to the Local Planning Authority for approval in writing. The walls shall thereafter be constructed, maintained and irrigated in accordance with the approved details.
- 12) 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 the Local Planning Authority for approval in writing. Development shall be carried out in accordance with the approved details



- and completed prior to the first occupation of the development hereby approved.
- 13) Prior to first occupation of the development hereby permitted details showing the type, number, location and timescale for implementation of the compensatory bird and bat boxes shall have been submitted to the Local Planning Authority for approval in writing. The scheme shall then be carried out in strict accordance with the approved details prior to its first occupation and thereafter retained.
  - 14) Unless otherwise agreed in writing by the Local Planning Authority, the non-residential development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' has been submitted to the Local Planning Authority for approval in writing.
  - 15) 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.
  - 16) 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).
  - 17) No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods as per the recommendations of the Sustainable Drainage Report and Flood Risk Assessment (Ref: 14808/01/SDR) and dated January 2016 has been submitted to the Local Planning Authority for approval in writing. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the building commencing.
  - 18) No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the quantum, which must be a minimum of 5% of the total, and the design of the residential units that are to be wheelchair accessible and those which are to be affordable rented units have been submitted to the Local Planning Authority for approval in writing. Development shall be carried out in accordance with those approved details.
  - 19) Prior to the first occupation of any part of the development hereby approved, details of demonstration that the energy plant has capacity to connect to a future district heat network in the area has been submitted to the Local Planning Authority for approval in writing.
  - 20) No development shall commence until an assessment of the risks posed by any contamination, which shall include a desk top study of previous uses of the site and a site investigation report, has been submitted to the Local Planning Authority for approval in writing. The results of those risks identified together with the required remediation measures and timescales to render it suitable for the approved development shall be submitted to the Local Planning Authority for approval in writing. The

- site shall be remediated in accordance with the approved measures and a verification report including a monitoring and maintenance plan of pollutant linkages and contingency action shall be submitted to the Local Planning Authority for approval in writing.
- 21) If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.
  - 22) All existing infrastructure should be protected during construction with no excavation, tree planting or mounding being carried out within four metres of the public water main without consent. Any public sewer found during construction shall be surveyed before any further works commence on site.
  - 23) No drainage systems for the infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.
  - 24) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
  - 25) 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.
  - 26) No delivery vehicular movements nor any loading or unloading of vehicles to the A1 unit shall take place except between the hours of 7am and 7pm on Monday to Saturdays or between 8am and 6pm on Sundays, Bank or Public Holidays.
  - 27) The development hereby permitted shall not be occupied until a Delivery and Service Management Plan for the commercial elements of the scheme, which includes details of the types of vehicles, how deliveries servicing and refuse collection will take place and the frequency of those vehicle movements has been submitted to the Local Planning Authority for approval in writing. All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.
  - 28) The development hereby permitted shall not be first occupied until details of a comprehensive parking and management plan, to include a detailed parking layout drawing, details of secure cycle storage, disabled parking provision, motorcycle parking and signage have been submitted to the Local Planning Authority for approval in writing. Development shall be



carried out in accordance with those approved details and completed prior to occupation of any part of the development and shall thereafter be retained.

- 29) The vehicle parking area(s) shown on the approved plans shall not be used otherwise than for the parking of private motor vehicles and motorcycles belonging to the occupants of and visitors to the development hereby approved and shall be maintained so as to ensure their availability for such use at all times.
- 30) Within six months of commencement of the development hereby permitted, a scheme shall be submitted to the Local Planning Authority for approval in writing to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.
- 31) The development hereby permitted shall not be commenced until details of electric vehicle charging points have been submitted to the Local Planning Authority for approval in writing. 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.

## **APPEARANCES**

### **FOR THE APPELLANT:**

Ms Felicity Thomas	Counsel for the Appellant
Mr Nick Bignall	Viability Consultant
Mr Simon Lambor	Appellant
Mr Andrew Lambor	Appellant
Mr Oliver Tuckley	Appellant

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Chris Swain	Planning Officer
Mrs Hilary Woodward	Solicitor
Mr Jeffrey Solomon	Viability Consultant
B.Sc (Hons) MRICS	
Mr Lee Jackson	Viability Consultant

### **INTERESTED PERSONS:**

Professor Mike Gibson	Local Resident
Mr Michael O'Connor	Local Businessman
Councillor Jackie O'Quinn	Ward Councillor

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Position Statement submitted by the appellant.
2. Updated and correct Decision Notice submitted by the Council.
3. CIL Compliance Statement submitted by the Council.
4. Signed Legal Agreement submitted by the Council.
5. Response to application for costs submitted by the Council.
6. Extracts from the BNP report submitted by the Council.



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## Appeal Decision

Site visit made on 11 December 2018

by **Tim Crouch MSc DipUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23<sup>rd</sup> January 2019

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### **Appeal Ref: APP/Q1445/W/18/3206295 66 Buckingham Road, Brighton, BN1 3RQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Louise Stagnetto of Marindia Traders Ltd against the decision of Brighton & Hove City Council.
  - The application Ref BH2018/00482, dated 14 February 2018, was refused by notice dated 27 April 2018.
  - The development proposed is extension and conversion of Class C4 maisonette into two Class C3 studio flats.
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### **Decision**

1. The appeal is allowed and planning permission is granted for extension and conversion of Class C4 maisonette into two Class C3 studio flats at 66 Buckingham Road, Brighton, BN1 3RQ in accordance with the terms of the application, Ref BH2018/00482, dated 14 February 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: D.02, D.03, D.05 and D.06.
  - 3) No construction of the roof shall commence until samples of the materials to be used in the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
  - 4) The windows hereby approved shall be painted timber double hung vertical sliding sashes with no trickle vents and shall match the original sash windows to the building, including their architrave, frame and glazing bar dimensions and mouldings, and subcill, masonry cill and reveal details, and shall have concealed sash boxes recessed within the reveals and set back from the outer face of the building to match the original sash windows to the building, and the windows shall be retained as such at all times thereafter.

## **Procedural Matter**

2. The site visit procedure was altered from an access required site visit to an unaccompanied site visit as the appellant's representative was not present when I arrived at the appeal site during the pre-arranged period. Taking into account the as yet unbuilt nature of the conversion, I am satisfied that I was able to see all I needed to from public land.

## **Main Issues**

3. The main issues are firstly, whether the proposal comprises the loss of accommodation suitable for family occupation, and secondly, whether the proposed development would provide acceptable living conditions for its future occupiers.

## **Reasons**

### *Family accommodation*

4. No 66 Buckingham Road is a converted former shop with 4 storeys of accommodation. The ground and lower ground floors are flats with no changes proposed. The first and second floors comprise a 3 bed maisonette proposed to be converted to 2 bedsits facilitated by roof alterations including a mansard roof and new windows. I understand that these external changes are the same as permitted under a previous consent and are therefore not a matter of contention, including its effect on the Conservation Area.
5. The existing maisonette is used as a small house in multiple occupation (HMO), a C4 use. This use dates back over 12 years and there is no dispute that it is lawful. The Council's position is that the proposal conflicts with saved Policy HO9 of the Brighton & Hove Local Plan 2005 (BHLP), which seeks to resist conversions which would involve the loss of smaller dwellings suitable for family accommodation. The appellant contends that the policy does not apply to C4 use and has provided an appeal decision<sup>1</sup> to support this suggested position.
6. The policy refers to the conversion of 'dwellings' and the retention of smaller dwellings. Rather than contending that the policy does not apply to C4 use, the Inspector in that previous decision assessed whether the existing unit was a smaller dwelling suitable for family occupation. As the definition of a dwellinghouse is a matter of fact and degree I consider this to be the appropriate assessment.
7. The change of use from an HMO (C4 use) to a single dwellinghouse (C3 use) is possible as permitted development (PD), and the policy would clearly be relevant should this be a likely scenario, especially in an accessible location close to relevant amenities. In this case though, there is little to indicate this to be a reasonable expectation. It is a longstanding use with permission to increase the bedroom sizes in this regard. Whilst first floor (and above) living is not unsuitable for families per se, the particular characteristics of the building, with no ground floor storage, no outside living space and, as I saw from my site visit, a significant distance to walk to public open space, make such a change, in my view, unlikely.

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<sup>1</sup> Appeal Decision APP/Q1445/W/15/3140605

8. I note the Council's concerns of creating a loophole, should this appeal be allowed, where C3 dwellinghouses, which are, or would be, suitable for family occupation, could become short term C4 units under PD (C3 to C4 can also be permitted development) to circumvent the requirements of Policy HO9. However, this is not the basis on which I have assessed the proposal, and each application needs to be considered on its own merits. This property has clearly been a long term HMO with professional managing agents and would have significant limitations as a smaller family dwelling.
9. Therefore, the proposal would not involve the loss of a smaller dwelling suitable for family occupation, even potentially, and therefore there is no conflict with Policy HO9 of the BHLF.

#### *Living conditions*

10. Reference by both parties has been made to the government's 'Technical housing standards – nationally described space standard', although full compliance with these is reliant on relevant Local Plan policy. In this case, the Council do not have an adopted policy on space standards. While I note the appellant suggests that these standards apply only for newly-built rather than converted dwellings, I disagree. Notwithstanding the reference in an earlier decision<sup>2</sup> where my colleague notes that the appellant points this matter out, while the standards refer to 'new dwellings' these can result from a change of use or conversion, as well as newly erected dwellings. The standards nonetheless provide some guidance as to the acceptability of space for future occupants, although it is noted that the existing arrangement across the building is below the standard set out.
11. Both proposed new dwellings would be slightly below the guidance. However, as bedsits they would benefit from reduced internal walls and both would have windows front and rear, with somewhat flexible layouts. Significant evidence has been provided by the appellant of other recent sales of such accommodation at comparable, and in some cases, smaller floorspace. The Council has not commented on this evidence, which nonetheless suggests that such small dwellings are meeting a housing need in the area.
12. With the particular layout, open plan design and dual aspect windows I do not consider that the layout would result in a significantly cramped and oppressive standard of living for future occupiers. The second floor unit would be the smaller with a part sloping roof. Whilst the windows are not large for this unit, the open layout between them would allow light into the living area. As a dwelling within the roof of a converted older building there would be a degree of expectation of angled roofs and a somewhat reduced living area.
13. For these reasons the dwellings would provide acceptable living conditions for future occupiers in compliance with Policy QD27 of the BHLF, which requires development to provide suitable amenity for its future users.

#### *Other matters*

14. Following a recent appeal decision<sup>3</sup> both parties agree that the Council cannot currently demonstrate 5 year housing land supply. The precise level of shortfall

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<sup>2</sup> Appeal Decision APP/Q1445/W/17/3173703

<sup>3</sup> Appeal Decision APP/Q1445/W/17/3177606

is unclear. However, I have found no significant harm from the proposal against the policies within the development plan.

*Conditions*

15. The Council has suggested conditions should the appeal be allowed, to which I have had regard. In addition to the standard implementation time limit, I have imposed a condition specifying the relevant drawings as this provides certainty. Conditions are also necessary to secure external materials and window detailing to ensure a satisfactory appearance and to preserve the character and appearance of the Conservation Area.

**Conclusion**

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

*Tim Crouch*

INSPECTOR



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# Appeal Decision

Site visit made on 22 January 2019

by **Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 13 February 2019

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## Appeal Ref: APP/Q1445/W/18/3207549

### 38a Upper Gardner Street, Brighton, East Sussex, BN1 4AN.

- 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 Sussex Property Investments Ltd against the decision of Brighton and Hove City Council.
  - The application Ref BH 2018/00641 is dated 28 February 2018.
  - The development proposed is for part conversion and extension of the existing B8 storage to provide B1a office floor space.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Subsequent to the appeal against non-determination being lodged the Council resolved that had it at that date been in a position to determine the application it would have refused permission on the grounds that:

The proposed bridge building over the access on the east part of the site, by reason of its excessive height, flat roof form, massing and fenestration detailing, would be out of keeping with its immediate setting, and wider North Laine Conservation Area, contrary to Policies CP12 and CP15 of the Brighton and Hove City Council's Development Plan-*Brighton and Hove City Plan Part One* (Adopted March 2016) and saved Policy HE6 of the Brighton and Hove Local Plan 2005 (Adopted July 2005); and,

The proposed bridge building over the access on the east part of the site, by reason of its height, depth proximity to the shared boundary, would result in a significant loss of light to the first floor window at 38 Upper Gardner Street, and a significantly harmful increase to the sense of enclosure of the already constrained rear out door amenity space. In addition the proposed first floor terrace over the extension to the existing building between 39 Upper Gardner Street and 36-39 Queen's Gardens would result in harmful overlooking of the first floor rear window at 38 Upper Gardner Street. The proposed development would harm neighbouring amenity, contrary to saved Policy QD27 of the Brighton and Hove Local Plan 2005 (Adopted July 2005).

## **Main Issues**

3. I therefore consider the main issues to be:

- a) whether the proposed development would serve to preserve or enhance the character or appearance of the North Laine Conservation Area; and,
- b) whether the proposed bridge building over the access on the east part of the site would result in such a significant loss of light to the first floor windows at 38 Upper Gardner Street, result in such a harmful sense of enclosure of the rear outdoor amenity space and whether the proposed first floor terrace over the extension to the existing building between 39 Upper Gardner Street and 36-39 Queen's Gardens would result in a loss of privacy leading to overlooking of the first floor rear windows at 38 Upper Gardner Street so as to cause harm to the living conditions of the neighbouring occupiers.

## **Reasons**

4. The appeal site, 38a Upper Gardner Street, comprises a vacant plot fronting Upper Gardner Street, giving access to a large 'T' shaped parcel of land to the rear. The access is located between a large flint faced warehouse and a modern two-storey residential terrace. There is a two-storey warehouse at the southern end of the 'T' shaped plot. The appeal site is located in the North Laine Conservation Area.
5. Upper Gardener Street comprises a mix of development, including 19c two-storey residential terraces, modern two-storey terraces, an infant school dating from 1887, a large warehouse and a number of smaller warehouses/light industrial buildings.

### *Conservation Area*

6. The appellant proposes the construction of a two-storey, flat roofed, linking structure or bridge at first and second floor level between numbers 38 and 39 Upper Gardener Street to provide two floors of offices. Although a staircase to the higher levels is proposed, the access to the area behind the Upper Gardener Street frontage would generally be maintained at ground level. The existing warehouse building behind number 39 would be extended and altered to provide additional office accommodation.
7. In respect of the proposed alterations to the existing warehouse at the rear, the Council finds no harm to the conservation area. Given its location behind frontage buildings and from what I have seen and read I would not disagree with its findings in this respect.
8. Concerns have been raised about the potential impact on the flint walls of the warehouse as a result of the construction of the bridge structure. Views of flint walls would to some extent be diminished from the public view. However, by careful design detailing I believe that the existing flint work could be retained undamaged by the development of the bridge. Accordingly, in the event that I were minded to allow this appeal this is a matter that could be addressed by a suitably worded condition.



9. Similarly the Council is concerned about the material from which the gates to the street frontage should be fabricated. This could likewise be resolved by condition as proposed by the appellant.
10. There is a significant contrast in the scale, form and fenestration pattern between both the existing warehouse and the neighbouring terrace of the modern two-storey houses when viewed from the street. In principle, therefore, in terms of its height, flat roofed form and the two-storey projecting window, I consider that the proposed infill structure would appear as a well mannered architectural device to link two very different buildings, being the warehouse and terraced houses.
11. However, due to the location of the bridge, forward of and finishing above the roof of the terrace housing, it would result in an awkward and unattractive junction to the roof of the neighbouring dwellings. I consider that the relationship of the bridge and the roof of the terrace housing at this point would not only have a negative impact on the street scene but also the character and appearance of the conservation area.
12. The National Planning Policy Framework (the Framework) requires great weight to be given to the conservation of designated heritage assets, which include conservation areas. It draws a distinction between substantial harm and less than substantial harm to such an asset. In my judgement I consider that in this case the proposed development would not lead to substantial harm to or a total loss of significance of designated heritage asset. Accordingly the harm should be weighed against public benefits, including securing the optimum viable use.
13. The proposed development would clearly provide some economic benefits. However, given the harm that has been identified I conclude that the public benefits would not outweigh this harm, or the conflict that it would have with the objectives of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Framework and saved Policy HE6 of the Brighton and Hove Local Plan 2005 (Adopted July 2005) (LP) and Policies CP12 and CP15 of the Brighton and Hove City Council's Development Plan-*Brighton and Hove City Plan Part One* (Adopted March 2016) (CP) as they relate to the quality of development, and the preservation or enhancement of the character or appearance of conservation areas.

*Living conditions*

14. Due to the proposed height and location of the bridge structure adjacent to the boundary of number 38 Upper Gardner Street and its projection beyond the rear wall of the dwelling, I consider that it would result in an increased sense of enclosure of the rear outdoor amenity space for neighbouring residential occupiers. Although I accept that this is a high density urban environment, I nevertheless consider, on balance, that in this case this enhanced sense of enclosure would cause harm to the living conditions of the occupiers of number 38.
15. Given that the first floor windows of number 38 Upper Gardner Street either face the street or the rear yard, I am not persuaded that the proposed bridge structure would result in a loss of daylight to the existing first floor windows of 38 Upper Gardner Street.

16. Further, given the overall height of 39 Upper Gardner Street located to the south of number 38 being much higher, I do not believe that the new bridge building would result in such a significant increase in overshadowing of the first floor windows of number 38 as to cause material harm to the occupiers' living conditions.
17. The design incorporates the construction of a single storey extension with a terrace over to the existing warehouse east of 36 Queen's Gardens, between 39 Upper Gardner Street and 36-39 Queen's Gardens. Due to the height of the existing boundary wall there would be no overlooking of the rear outdoor amenity space of 38 Upper Gardner Street. However, I consider that it would result in overlooking of the first floor window to the rear of number 38 leading to a loss of privacy. However, if I were minded to allow the appeal this concern could be addressed by a suitably worded condition requiring the erection of a screen to the proposed terrace.
18. I conclude, in respect of the second main issue, that the proposed development would not cause harm to the residential living conditions of the occupiers of 38 Upper Gardner Street in terms of loss of daylight, overshadowing and, subject to the erection of a privacy screen to the new terrace, a matter that could be conditioned, it would not lead to overlooking or a loss of privacy. However, the projection of the bridge beyond the rear wall of the neighbouring dwelling would result in an increased sense of enclosure of the rear outdoor amenity space for neighbouring residential occupiers. This would cause harm to residential living conditions contrary to saved LP Policy QD27, which amongst other things seeks to protect residential living conditions.

### **Conclusions**

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

*Philip Willmer*

INSPECTOR

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# Appeal Decision

Site visit made on 30 January 2019

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

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

**Decision date: 15<sup>th</sup> February 2019**

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## **Appeal Ref: APP/Q1445/W/18/3211788**

### **46 Newmarket Road, Brighton, BN2 3QF**

- 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 Standing against the decision of Brighton & Hove City Council.
  - The application Ref BH2018/00123, dated 15 January 2018, was refused by notice dated 11 June 2018.
  - The development proposed is the change of use of a 6-bedroom small house in multiple occupation to a seven bedroom house in multiple occupation.
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### **Preliminary matters**

1. The application made to the Council was refused for two reasons, as set out on the Decision Notice. In the Council's Final Comments reference is made to works at the roof. The application made to the Council did not make any reference to seeking permission for any such works, and it is evident from the Delegated Report and the Decision Notice that no consideration was given to any matters regarding the roof. I have therefore not considered this matter, which has been raised at a very late stage in the proceedings.

### **Decision**

2. The appeal is allowed and planning permission is granted for the change of use of a 6-bedroom small house in multiple occupation to a seven bedroom house in multiple occupation at 46 Newmarket Road, Brighton, BN2 3QF in accordance with the terms of the application Ref BH2018/00123, dated 15 January 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby approved shall only be occupied by a maximum of seven persons.
  - 3) The communal areas as detailed on the approved drawing 3565.PL.09 Rev G shall be retained as communal space at all times and shall not be used as bedroom accommodation.
  - 4) The development hereby permitted shall be carried out in accordance with the approved plans 3565.PL.09 Rev G & 3565.PL.10.

### **Main issues**

3. The first two main issues in this appeal are the effect of the proposed development on the mix of housing in the community, and on the living
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conditions of adjoining residents. A further main issue is whether the proposed development would provide satisfactory living standards for future occupants.

## Reasons

### *Mix of housing*

4. Policy CP21 of the Brighton & Hove City Plan (2016) sets out that *'to meet increasing accommodation demands from students and to create mixed, healthy and inclusive communities, the Council will support the provision of additional purpose built accommodation and actively manage the location of new Houses in Multiple Occupation'*. Part ii) of the Policy states that applications for changes of use to an HMO will not be permitted where more than 10% of dwellings within a radius of 50m of the application site are already in an HMO use.
5. It is common ground that the existing property lies in an area where there is already over 10% of housing used as an HMO, and that the property itself is already lawfully used as an HMO. I have been referred by both main parties to a number of appeal decisions that have considered whether the provisions of Part ii) of Policy CP21 should apply to a change of use from an existing small HMO falling within Use Class C4 to a large HMO (*sui generis*). It appears from these decisions, and from a plain reading of the Policy, that Part ii) would apply to any change to a *sui generis* House in Multiple Occupation irrespective of the lawful base use from which the change is made. This would lead to the proposed development being technically contrary to Policy CP21. However, the consistent theme in these decisions where a similar proposal has been considered is the consequence of the proposed use on the balance of the community, and that is a matter of planning judgment based on the facts of the case.
6. In the current appeal it is therefore necessary to have regard to the Council's specific objections to the proposed use. That is expressed in their first reason for refusal, namely that *'the proposed intensification of the use of this property as a large House in Multiple Occupation (sui generis) in a location with a high concentration of existing HMOs and student housing would further reduce the proportion of family homes in the area'*.
7. Increasing the number of occupants would not change the proportion of HMOs in the area, nor lead to the loss of a family house, nor would it alter the range of housing types in the area. I therefore do not agree with the Council in this case that the proposed change of use would further reduce the proportion of family homes in the area, nor with their statement in the Delegated Report that *'the further intensification of use through the change of use to sui generis HMO would add to the concentrations of HMOs in this area of the City'*; the appeal property is an HMO, and it will continue as an HMO.
8. Therefore, although Part ii) of Policy CP21 may apply to the proposed change of use and there is a technical breach of that Policy, I cannot conclude there would be any effect on the mix of housing in the community as expressed by the Council in this case. Thus, there would not be any change to the mix of housing in the community and so no conflict with the overarching objectives of the Policy in seeking mixed, healthy and inclusive communities. No conflict therefore arises on the first main issue.

*Living conditions*

9. The Council consider the increased occupancy of the property would lead to an increase in noise and disturbance, to the detriment of neighbouring residents and a healthy and inclusive community.
10. I note that third parties have raised concerns with noise and disturbance that exists already. It is evident that some of this concern stems from wider objections to the effect of student housing in the vicinity and not just from the appeal property. Nevertheless, I acknowledge that the proposed development would provide an additional bedroom space in the property and area.
11. The additional occupant would be accommodated within an existing room of the property that is currently not used as a bedroom. This is in the main body of the house, and the new resident would use the existing facilities of the house and same access as current residents. On the balance of the evidence presented to me, and seen at my site visit, I cannot see that one further person at this property, in these circumstances, would lead to a material change to the level of noise and disturbance arising from the property to neighbours or to the wider area; it would be a minimal change to the property.
12. On the second issue it is therefore concluded that the proposed development would not be harmful to the living conditions of adjoining residents, and so there would not be any conflict with Policy CP21 of the City Plan in this regard or Policy QD27 of the Brighton & Hove Local Plan 2005, which seek to protect the amenity of residents.

*Standard of accommodation*

13. The Council's concern on this matter stems from the use of 'Bedroom 5', which is in the roofspace. The Council state the size of this room is 6.1 sq m (above 1.5 sq m headheight), whilst the appellant states it is 6.6 sq m (above 1.5 sq m headheight). Either measure is short of the Government's *Technical Housing Standards – Nationally described space standard* (2015). I am not aware that these Standards are part of the adopted development plan but, as a Government standard, I consider them a material consideration of significant weight.
14. The appellant has drawn my attention to the Council's published Standards for Licensable Houses in Multiple Occupation (2012). This states that a single bedroom (as is Bedroom 5) should have a minimum size of 6.5 sq m. I recognise that the planning system may look at wider factors in assessing the size of rooms, but as a published standard by the Council this is a further material consideration of significant weight. The bedroom therefore would comply with that standard under the appellant's measurement, and be just short under the Council's measurement.
15. In light of these two conflicting material considerations I concur with the appellant that an on-site inspection of the quality of the living accommodation is the soundest way to determine the adequacy of Bedroom 5 to provide satisfactory space, since the room in question exists at present. I saw at my site visit that the room was well-lit, and that the area of restricted headroom could accommodate bed and furniture whilst leaving sufficient room for other furniture and circulation. My judgement is therefore that the size of Bedroom 5 provides satisfactory living space.

16. I also note that – as pointed out by the appellant – the appeal relates to the creation of a new 'Bedroom 7' in the property. That room would be of good size and outlook.
17. The existing communal kitchen, eating area and utility room for the property would be used by the additional resident. This would be 17.8 sq m, which the Council state is too small to be used by the 7 residents. The appellant states that this is in excess of the 14 sq m set out in the Council's Standards for HMOs (2012), and again this is a material consideration of significant weight.
18. As with the issue of Bedroom 5, I consider that an on-site inspection was the best way to determine the adequacy of this room. I noted that the space and layout of the room would provide for 7 residents to cook and socialise, with sufficient space to access facilities and the garden.
19. On the third issue it is therefore concluded that the proposed development would provide satisfactory living standards for future occupants, and so be consistent with the objectives of Policy QD27 of the Local Plan.

*Conclusions and conditions*

20. The appeal is therefore allowed. I have attached conditions specifying the relevant drawings, use of the rooms, and the occupation of the property, as these provide clarity and certainty; they are reasonable and necessary in order to regulate the use of the property and the layout. I do not, though, consider the Council to have demonstrated the necessary exceptional circumstances to remove permitted development rights, as the property is within a residential area of similar houses, and the normal permitted development tolerances are designed to avoid harm to neighbouring residents or the surrounding area.

*C J Leigh*

INSPECTOR



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# Appeal Decision

Site visit made on 30 January 2019

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

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

**Decision date: 15<sup>th</sup> February 2019**

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**Appeal Ref: APP/Q1445/W/18/3209714**  
**43 Stanmer Park Road, Brighton, BN1 7JL**

- 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 James Pyper against Brighton & Hove City Council.
  - The application Ref BH2018/01971 is dated 15 June 2018.
  - The development proposed is the change of use from C3 single dwellinghouse to C4 HMO (3 to 6 occupants).
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## Procedural matters

1. The application form submitted to the Council provided the description of the proposed development as set out above. The Council failed to determine the application in the prescribed period, but in their subsequent Appeal Statement and Delegated Report changed the description of the proposed development. The Council also states that, had they been in a position to determine the application, the reason would have related to external alterations to the roof that, they say, has facilitated a change of use to a 7-bedroom HMO and that a rear dormer is harmful to the character and appearance of the area.
2. The application did not seek permission for a 7-bedroom HMO, nor a rear dormer. The plans submitted with the application did not show those details. I have assessed the appeal on the application submitted to the Council that they failed to determine, and the material submitted with that application. I shall therefore not consider the roof alterations or dormer any further. My procedural findings on this matter do not affect any future considerations by the local planning authority.

## Decision

3. The appeal is allowed and planning permission is granted for the change of use from C3 single dwellinghouse to C4 HMO (3 to 6 occupants) at 43 Stanmer Park Road, Brighton, BN1 7JL in accordance with the terms of the application Ref BH2018/01971 is dated 15 June 2018, subject to the following conditions:
    - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
    - 2) The development hereby approved shall only be occupied by a maximum of six persons.
    - 3) The development hereby approved shall be implemented in accordance with the proposed layout detailed on the floorplan 1197/05A and shall be retained as such thereafter. The room annotated as communal shall be
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retained as communal space and shall not be used as bedrooms at any time. The bedrooms shown shall be retained in the form shown on the plans and not subdivided.

- 4) The development hereby permitted shall be carried out in accordance with the approved plans 1197/01, 1197/02 & 1197/05A.

### **Main issues**

4. The main issue in this appeal is whether the proposed change of use would retain a suitable mix of housing in the community and provide satisfactory living standards for future occupants. A further issue is the effect on residential amenity.

### **Reasons**

5. Policy CP21 of the Brighton & Hove City Plan (2016) sets out the circumstances in which the change of use of properties to provide HMOs will be allowed, with the objective of the Policy seeking to provide communities that are mixed, healthy and inclusive. Part ii) of the Policy allows for such changes of use provided certain criteria are satisfied. The Council's Delegated Report states that these criteria are satisfied, and so there is no conflict with Policy CP21.
6. The submitted drawings show internal alterations to the property, and the bedrooms and communal space resulting from these changes would provide satisfactory accommodation for future occupants in terms of layout, size and outlook. The Council are satisfied with this matter, and I saw at my site visit that the standard of accommodation would be good.
7. Thus, on the main issue, I consider that the proposed change of use would retain a suitable mix of housing in the community and provide a satisfactory standard of accommodation. The proposals therefore accord with Policy CP21.
8. The compliance of the change of use with Policy CP21 relating to the concentration of HMOs in the area indicates that the locality is not under significant strain from non-family residential properties. The use of the house by unrelated adults will give rise to comings-and-goings and different patterns of behaviour. However, this level of use in an established tightly built-up area is unlikely to give rise to an appreciable level of noise disturbance to existing residents. Thus, there would not be any conflict with Policy CP21 of the City Plan or Policy QD27 of the Brighton & Hove Local Plan 2016, which seek to protect the amenity of residents.

### *Conclusions and conditions*

9. The appeal is therefore allowed. The Council have suggested a number of conditions in the event of the appeal being allowed. One would restrict the occupation on the property to a maximum of five persons. However, the application to the Council was for up to 6 occupants, and the submitted drawings show 6 occupancy (4 single bedrooms and 1 double bedroom), and the bedroom sizes and communal space is suitable for 6 occupants. I consider it reasonable and necessary to have a condition that controls the number of occupants in order to regulate the use of the property, and so I have attached a modified condition.
10. The Council's suggested condition requiring retention of the layout shown on the approved plans is reasonable and necessary, to ensure that the use of the



property and the layout of bedrooms and communal space remain for the 6 occupants, and so retain a good standard of living accommodation and amenity. I do not agree that future occupiers should be allowed to arrange the property as they see fit, as a different layout may affect these matters of living conditions and amenity, and the local planning authority should be able to regulate such issues.

11. I concur with the appellant that there are not the exceptional circumstances necessary to remove permitted development rights: the property is a typical residential one in an area of similar houses, and the normal parameters of the permitted development rights limit adverse effects on the area or to neighbouring residents.
12. Finally, I have attached a condition specifying the relevant drawings as this provides clarity and certainty.

*C J Leigh*

INSPECTOR





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# Appeal Decision

Site visit made on 22 January 2019

by **Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 6 February 2019

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**Appeal Ref: APP/Q1445/W/18/3209198**

**Flat 1, 37 Springfield Road, Brighton, East Sussex, BN1 6EX.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Kate Goodall against the decision of Brighton and Hove City Council.
  - The application Ref BH2018/00719, dated 6 March 2018, was refused by notice dated 2 July 2018.
  - The development proposed is a rear extension.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The appeal site is located in the Preston Park Conservation Area. I am required therefore to take account of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that, with respect to buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Therefore, although not a reason for refusal, I shall nevertheless, as I am required to do, consider this as one of the main issues in this appeal.

## Main Issues

3. I consider the main issues to be:
  - a) the effect of the proposed development on the living conditions of the occupiers of flat 2 at 37 Springfield Road, by reason of its potential to appear overbearing and have an overshadowing effect on the outside amenity space of that property; and,
  - b) whether the proposal would serve to preserve or enhance the character or appearance of the Conservation Area.

## Reasons

### *Living conditions*

4. Number 37 Springfield Road is a semi-detached property located in the Preston Park Conservation Area. It is divided into a number of self-contained flats and

- maisonettes. Flat 1 is a maisonette comprising accommodation at both ground and first floor level with access to a large private rear garden area.
5. The appellant proposes the construction of a single storey rear extension. It would have a pitched fascia on three sides rising to a flat roof, and topped with a lantern light.
  6. The neighbouring flat, number 2, also has direct access to an area of private amenity space immediately to the rear of the property. However, in relation to the garden of flat 1 this is a relatively small courtyard area, extending only about 4.2 metres or so beyond the rear wall of flat 1. It is enclosed on three sides by a 1.8 metre high close-boarded fence, brick wall and, at the northern end, storage buildings in the garden of flat 1.
  7. The proposed addition, which would be some 4.2 metres deep, would extend to the end of the courtyard garden of flat 2, thereby enclosing the courtyard's western boundary. The eaves height of the extension would, I understand from the evidence, be about 2.3 metres with the ridgeline of the roof being 3.0 metres or so above ground level.
  8. I agree with the Council, from my observations on site, that although the addition would not be significantly higher than the existing boundary treatment and would slope away from the common boundary, it would nevertheless reinforce the existing sense of enclosure. Further, due to the extension's design and location in the context of the size of the courtyard of flat 2 it would also, in a small but material way, appear overbearing.
  9. However, given the orientation of the properties, I am not persuaded that the proposed addition would overshadow the courtyard of flat 2 to any significant extent.
  10. I conclude in respect of the first main issue that the proposed addition, due solely to its overall height and the form of the roof, while not causing harm by reason of overshadowing, would nevertheless appear as an enclosing element that would appear overbearing. It would thus cause harm to the living conditions in these respects to the users of the courtyard of flat 2 at 37 Springfield Road. To allow it would therefore be contrary to saved Policies QD14 and QD 27 of the Brighton and Hove Local Plan 2005 (Adopted July 2005) as they relate to the protection of residential living conditions.
  11. In my opinion, and while it would be for the Council to consider any alternative proposal in the first instance, I believe that there may well be ways of modifying the design, even dropping the floor level of the extension as suggested by the appellant, to overcome the harm that I have identified.

*Character and appearance of the Preston Park Conservation Area*

12. The proposed addition would, I understand, be an extension of an earlier addition to the property. Nevertheless, as identified by the Council, it would not impact on the spacious characteristics of this part of Springfield Road as it would be well sited within the existing generous garden plot and would not extend beyond the sidewall of the host property. Furthermore, its design and the palette of materials proposed for its construction would not detract from the appearance of the host property.

13. For all these reasons I conclude that the proposed development would serve to preserve the character and appearance of the conservation area.

**Conclusions**

14. I have found that the proposal would preserve the character and appearance of the conservation area. However, it would result in unacceptable harm to the living conditions of the occupiers of flat 2. Accordingly for that reason the appeal should not succeed.

*Philip Willmer*

INSPECTOR



## Appeal Decision

Site visit made on 30 January 2019

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

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

**Decision date: 15<sup>th</sup> February 2019**

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**Appeal Ref: APP/Q1445/W/18/3211648**

**Land to the rear of 62 & 64 Preston Road, Brighton, BN1 4QF**

- 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 Richard Little against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/04186, dated 20 December 2017, was refused by notice dated 13 March 2018.
  - The development proposed is the erection of a 5 storey extension to rear of existing building incorporating excavations for basement enlargement and alterations to provide 4 flats (C3) and bin store.
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### Preliminary matters

1. The description of the proposed development differed on the Council's Decision Notice to that provided on the application form. As the former is a more accurate description of the scheme refused permission I have adopted that description.

### Decision

2. The appeal is dismissed.

### Main issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the surrounding residential area. A further consideration is the effect on living conditions of adjoining occupiers.

### Reasons

#### *Character and appearance*

4. The proposed extension would be within the rear yard of properties facing Preston Road and would see the demolition of an existing projection to the rear of No. 62 and erection of an extension over the existing three floors and roof, and a basement extension.
  5. A consideration of particular importance in this appeal is the grant of planning permission by the Council for the excavation and erection of a three storey building comprising 3 residential units (C3) with associated alterations (ref. BH2018/00854). This was in June 2018, subsequent to the refusal of the scheme the subject of this current appeal. There is a good deal of similarity
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between the two schemes, but a chief difference in relation to the first issue in this appeal is that the approved scheme does not include an extension at roof level; the appeal scheme includes what has been termed a 'pod' roof.

6. It is this addition at roof level that remains objectionable in the appeal scheme. The surrounding area sees pitched and hipped roofs, and the proposed development shows an awkward and oddly-proportioned roof form that would be incongruous with the existing Preston Road buildings and the extension beneath. The contrast between the very different roof forms would serve to create an emphasised different character between the original building and the new extension, which would not be to the benefit of the design due to the incongruous junction between the two roofs.
7. Thus, the extended building would have an unresolved and uneasy appearance, emphasizing its scale in the road, in contrast to the approved scheme that would appear as a less dominant, later addition to the Preston Road buildings. The set-back of the 'pod' from the elevations of the extension would not mitigate this harm.
8. On the main issue it is therefore concluded that the proposed development would be harmful to the character and appearance of the surrounding area, and so conflict with Policies CP12 of the Brighton & Hove City Plan 2016 and Policy QD14 of the Brighton & Hove Local Plan 2005, which seek a high standard of design in relation to both extensions to properties and to the surrounding area.

*Other considerations and conclusion*

9. The application was refused permission on the grounds of the effect on levels of light and outlook to adjoining properties, and an overbearing impact. This would be contrary to Policies QD14 and QD28 of the Local Plan, which seek to protect the amenity of residents. I have been provided with drawings for the approved scheme BH2018/00854 and there are few differences in the general mass and scale of the proposed extension, save for the 'pod' in the appeal scheme. Due to the position, set-back and height of that 'pod' I judge there would be little material difference to outlook, levels of light or overbearing between the appeal scheme and the approved scheme.
10. As a very recent planning permission which is similar to the appeal scheme, I consider BH2018/00854 has a high likelihood of implementation and so is a fallback position of significant weight. As there is no material difference between the effect on neighbours between the approved scheme and the appeal scheme, I conclude the material considerations in this appeal indicate that there is no objection to the current proposal on the grounds of harm to living conditions.
11. I acknowledge that the proposed development would provide an additional unit of accommodation within the city. However, I must balance this against other matters and, for the reasons given, I conclude that the harm arising on the first issue outweighs other considerations. The appeal is dismissed accordingly.

*C J Leigh*

INSPECTOR





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## Appeal Decision

Site visit made on 24 October 2018

by **V F Ammoun BSc DipTP MRTPI FRGS**

an Inspector appointed by the Secretary of State

Decision date: 30 January 2019

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**Appeal Ref: APP/Q1445/X/18/3194987**  
**17 Gableson Avenue, Brighton, BN1 5FG**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr and Mrs J Mercer against the decision of Brighton & Hove City Council.
- The application Ref BH2017/04033, dated 06/12/2017, was refused by notice dated 10 January 2018.
- 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 *Construction of garden room.*

**Decision: The appeal is dismissed.**

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### Application for costs

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

### Preliminary matters

2. The application was made for a proposed building, as shown on plans accompanying the application. The appeal and thus my decision relates to what is shown on these plans. At the site inspection I saw a partially completely building of the same general form and siting as that proposed by the LDC, but the status of that building is not before me for decision.
3. Similarly a lawful development certificate (LDC) appeal must be considered solely on the basis of fact and law, and irrespective of planning merit. I have therefore considered the representations received on the appeal only on that basis. In an LDC case the onus of proof lies on the appellant and the test is the balance of probability.
4. The Council's decision notice dated 10 January 2018 in part "*...refuses to certify that on 10 January 2018 ...*" In fact the date to which the decision should apply is that on which the application was made, in this case 06/12/2017, and I shall proceed on that basis.

### Reasons

5. The Town and Country Planning (General Permitted Development Order) 2015 as amended (GPDO) conditionally grants planning permission at Schedule 2, Part 1, Class E to buildings within the curtilage of a dwellinghouse, which are

thereby permitted development (PD). It is not in dispute that the proposed building would be within the curtilage of the semi-detached dwellinghouse 17 Gableson Avenue. The PD rights are however dependent upon compliance with all the relevant conditions/limitations set out in the GPDO. Whether there has been this full compliance is at issue in this case.

6. The Council acknowledges that the restrictions to Class E from E.1 through to E.3 are either not applicable or are met, and as there is no evidence or argument to the contrary I concur. The appeal turns on a dispute on the single matter of whether the GPDO requirement that the building be required "*.....for a purpose incidental to the enjoyment of the dwellinghouse as such*" would be met. The Courts have held that to be "incidental" the purpose must not be the provision of primary residential accommodation. National planning guidance reflects this stating in part that use as a self-contained dwelling or provision of primary residential accommodation such as a bedroom, bathroom or kitchen would not be incidental.
7. The application plans show the main garden room to have a small kitchen area comprising a worktop with a sink in it. Off the main room a smaller one contains a toilet and hand basin. A sofa, occasional table, and a round four seater dining table are shown within the main room, though as these items of furniture are not part of the building and could well change over time, I consider them illustrative rather than determinative of what would be likely if the building were constructed. The provision of a WC/hand basin and of a sink/worktop unit are however part of the LDC application proposal.
8. The Appellant has assured the Council that "*the purpose of the garden room is solely for ancillary use to the host property, there is no bed<sup>1</sup> shown on the drawings and the building will not be used for sleeping accommodation*". Such an assurance though potentially relevant if planning permission and conditions were under consideration, does not address whether as a matter of definition what is proposed is or is not incidental development as required by the GPDO.
9. The WC and hand basin room lacks the shower or bath needed to form a full bathroom, and the sink and worktop without cooking facilities would not constitute a usable kitchen. The Council refers to the ease with which a shower or a bed could be provided, but the LDC will relate to what is shown on the application plans rather than to what might later occur. Nevertheless as a matter of fact and degree I consider that the combined effect of what is shown would be sufficient to constitute a significant provision of additional primary residential accommodation. The national guidance referred to thus suggests that this would not meet the requirement to be *incidental* to the enjoyment of the dwellinghouse as such.
10. No.17 has a rear garden scaling some 25m in depth, and the appeal building would be sited less than 20m from the rear wall of the dwellinghouse. This is a distance at which one would normally expect persons frequenting a garden room to use toilet, hand basin and sink/worktop facilities within the existing dwellinghouse. I have concluded that there are no particular circumstances which might suggest that the national guidance should not apply in this case.

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<sup>1</sup> A Council letter had incorrectly stated that the application plans had shown a bed, perhaps mistaking the outline of a "roof light over".

11. It is stated that the Council's decision to withhold a LDC is inconsistent as a certificate was granted in a similar case. The Council has not responded to this claim. If it is assumed that the Council has in the past behaved inconsistently with the position it is taking in the present case, this would not, however, alter the obligation to determine a LDC case on the relevant fact and law.
12. For the foregoing reasons I have concluded that the Council's decision to withhold an LDC was well founded, and that the appeal will fail.

*V F Ammoun*

INSPECTOR





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## Appeal Decision

Site visit made on 3 December 2018

by **Paul T Hocking BA MSc MCMi MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 January 2019

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### Appeal Ref: **APP/Q1445/W/18/3203068** **10 Carden Avenue, Brighton BN1 8NA**

- 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 Anthony Radmall against the decision of Brighton & Hove City Council.
  - The application Ref BH2018/00419, dated 8 February 2018, was refused by notice dated 24 April 2018.
  - The development proposed is creation of a self-contained two bedroom apartment with garden from existing extension with separate access.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The parties are however not prejudiced as they would have had the opportunity to comment on the implications of the revised Framework on the appeal.
3. In October 2018, since the refusal of the appeal proposal, planning permission has been granted for alterations at No 10 and a change of use to a large House in Multiple Occupation (HMO) with up to 12 occupants, Ref: BH2018/01701.
4. I have therefore taken these matters into account in reaching my decision.

### Main Issues

5. The main issues are the effects of the proposed development on the:
  - i. character and appearance of the area;
  - ii. living conditions of occupants of the small HMO;
  - iii. living conditions of occupants of the proposed apartment.

### Reasons

#### *Character and appearance*

6. The appeal property is currently used as a small HMO. The appeal proposal seeks permission to convert an existing rear ground-floor extension to create a two bedroom apartment. The apartment would be accessed via a passage to

the side of the property. A small area of private amenity space would be provided by sub-dividing the existing rear garden.

7. Carden Avenue was previously characterised by detached houses in well-proportioned plots. However, the area has changed substantially over recent years with the construction of a large care home, Maycroft Manor. A day nursery and other intensification have also occurred within the vicinity, including a dwelling at No 10a.
8. The appeal proposal does not involve any change to the footprint or size of the rear extension. There is also backland residential development to the immediate rear of the appeal site. Whilst therefore some intensification of plots has taken place, including annexes, the prevailing character of residential properties remains that of detached dwellings set in good sized plots.
9. The proposed subdivision would result in a small unit of accommodation and plot size by comparison. It would also be linked to the rear of an existing property and have no direct street frontage. I find this intensification of the appeal site would result in a cramped form of development that is out of keeping with the residential character of the area. Consequently the proposal would not respect the pattern or grain of residential properties in the area.
10. I therefore conclude the proposal would be harmful to the character and appearance of the area. This would conflict with policies CP12 and CP14 of the Brighton and Hove City Plan Part One. These policies require, amongst other things, that urban grain be respected and for residential development to be of a density that is appropriate to the identified positive character of a neighbourhood.

*Living conditions of occupants of the small HMO*

11. In order to access the apartment occupants would use a passageway immediately adjacent to the windows of a room within the HMO as well as those of a shared kitchen and bathroom. In my view these movements would result in a harmful loss of privacy and the potential for disturbance to the occupants. The use of obscure glazing in mitigation would then result in the kitchen and HMO room being unacceptably enclosed.
12. The proposal would result in the subdivision of the rear garden and I saw during my site visit that fencing had already been erected. No 10 is a large property with a comparatively modest sized garden. The proposal results in the subdivision of approximately half the rear garden. Whilst the appellant says there is not a requirement to provide outdoor amenity space for HMO's, that is in relation to private sector housing requirements as opposed planning policy. The appellant has therefore provided an area in recognition of need for the occupants of No 10. However, as the existing HMO could accommodate up to 6 people, I am not satisfied that the small garden that would serve these occupants would provide them with adequate usable outdoor amenity space.
13. For these reasons I conclude the proposal would result in unsatisfactory living conditions for occupants of the small HMO contrary to policies QD27 and HO5 of the Brighton and Hove Local Plan (the BHLP). These policies, amongst other things, seek to ensure amenity space is appropriate in scale and that the amenities of occupiers are protected.

*Living conditions of occupants of the proposed apartment*

14. The rooms within the apartment would be adequate for undertaking day-to-day activities and would provide sufficient space for furniture and circulation. They would be served by large windows and due to their raised position would have adequate outlook over the fence towards Maycroft Manor. In these respects the apartment would provide adequate living conditions for future occupants.
15. However, the windows of the apartment would look towards and be in close proximity to the garden for the small HMO. This awkward relationship would mean that the use of the garden by up to 6 residents would be likely to result in noise and disturbance to occupants of the apartment. Whilst the appellant says the area is already noisy owing to the children's nursery and nursing home, these sites are not in as close proximity to the windows of the apartment as the HMO garden and so would not have the same effect.
16. Notwithstanding the adequacy of the accommodation in terms of size and outlook, I therefore conclude that the proposal would result in unsatisfactory living conditions for occupants of the proposed apartment owing to noise and disturbance arising from the use of the small HMO's garden. This would conflict with policy QD27 of the BHLPP which seeks to protect the amenity of future occupiers.

**Other Considerations**

17. I accept that the planning permission for an enlarged HMO is likely to be implemented. However, it would not result in the subdivision of the plot, and so would not harm the character and appearance of the area. Furthermore, the rooms that would be in the rear extension could be accessed internally. That scheme would therefore not adversely affect the living conditions of current or future occupiers of the building. Consequently, the permission for a large HMO does not alter my findings in relation to the appeal proposal.

**Conclusion**

18. I have found that the proposal would be harmful to the character and appearance of the area and would result in inadequate living conditions for existing and future occupants.
19. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Paul T Hocking*

INSPECTOR





## Appeal Decision

Site visit made on 30 January 2019

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

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

**Decision date: 15<sup>th</sup> February 2019**

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### **Appeal A Ref: APP/Q1445/W/18/3203399 13 Court Close, Brighton, BN1 8YG**

- 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 Chroma Property Management against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/00840, dated 10 March 2017, was refused by notice dated 29 November 2017.
  - The development proposed is described as 'alteration and extensions to existing property and subdivision to form 2no semi-detached properties, including associated parking and landscaping'.
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### **Appeal B Ref: APP/Q1445/W/18/3205232 13 Court Close, Brighton, BN1 8YG**

- 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 Chroma Property Management against the decision of Brighton & Hove City Council.
  - The application Ref BH2017/04178, dated 19 December 2017, was refused by notice dated 27 April 2018.
  - The development proposed is described as 'alteration and extensions to existing property and subdivision to form 2no semi-detached properties, including associated parking and landscaping'.
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### **Decision Appeal A Ref: APP/Q1445/W/18/3203399**

1. The appeal is dismissed.

### **Decision Appeal B Ref: APP/Q1445/W/18/3205232**

2. The appeal is dismissed.

### **Main issue**

3. The main issue in both appeals is the effect of the proposed development on the character and appearance of the surrounding residential area.

### **Reasons**

#### *Character and appearance*

4. The appeal property is a detached chalet bungalow which lies within a street of housing that evidently all dates from the inter-War period. There is a consistent
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- style to the architecture of the houses and bungalows in the road, with pitched roofs and dormer windows, but differences in scale, form and siting.
5. No. 13 forms part of an attractive grouping of similar chalet bungalows along the southern side of the road, all of which have a consistency in scale and appearance. These complement the setting of the adjoining two storey houses. They appear relatively modest properties when seen from both the front and in views of the side elevations along the road. There have, though, been alterations and extensions to bungalows and houses, including rear and side additions.
  6. The proposed works to No. 13 in Appeal A would represent extensions and additions to the building that are clearly out of scale and harmful to the property and wider area. The width of the roof would be increased and, associated with this, the provision of very deep gable ends with a flat roof. This would present an appearance of an excessively deep building that is entirely out of scale with the other bungalows along the road, and that disproportionate impression would be widely visible.
  7. This harmful impression of bulk would be emphasised by the number of dormers on the front elevation, positioned very close to the edge of the extended roof. The overall appearance of the building would thus be very much out of character with the area.
  8. The proposals in Appeal B have addressed the issue of excessive depth to the building. Although the current hipped roof would be changed to a gable end, there are examples of hipped gables in the road, and this limited change would not adversely affect the character of the area. I am also mindful that the appellant could undertake work to the gable end of the property, as confirmed under a Certificate of Lawfulness application that has been provided to me (ref. BH2018/02986). With regards to the proposed rearward extension of the building, this is now shown to be with pitched roof projections. This reduces the massing when seen from the side and, again, is a feature that exists at other properties along Court Close.
  9. However, despite these alterations to the design that have addressed certain matters, the overall appearance of the scheme remains excessive in scale for the site. This is due to the notably increased width of the building, through a sizeable extension to the eastern side. This is an area currently open at roof level, and the spaciousness arising from that gap is important to the character of the area. I do not agree with the appellant that the gap is uncharacteristic of the area: it provides a suitable break in the different architecture, form and siting of the grouping of bungalows compared to the appearance of the houses set around the end of the Close which are set further back from the road.
  10. The width, height and design of the proposed extension to No. 13 in this part of the site shown in Appeal B would thus result in an overly bulky building and which, due to the bungalow being set further forward than the houses to the east, would create a building that appears dominant in views along the street. I therefore agree with the Council that there would be a 'top heavy' appearance to the building that would be disruptive to the character of the original property and to the street scene.

11. On the main issue it is therefore concluded that the proposed development in both appeals would be harmful to the character and appearance of the surrounding area, and so conflict with Policies CP12 of the Brighton & Hove City Plan 2016 and Policy QD14 of the Brighton & Hove Local Plan 2005, which seek a high standard of design in relation to both extensions to properties and to the surrounding area.

*Other considerations and conclusion*

12. The distance retained between the proposed rearward extension and the roof extension and the site boundaries in both appeal schemes would be sufficient to ensure no undue overbearing impact on adjoining properties. Additional windows would be created in the rear elevation in both schemes, with Juliette balconies in Appeal B. At first floor these windows would serve bedrooms and be set away from the boundaries with the neighbouring properties, and so this use and retained distance would ensure the windows and balconies would not cause any material loss of privacy to existing residents. The windows at ground floor would be screened by boundary fences, whilst windows on the side elevation would be obscure glazed.
13. The Highways Authority state that the maximum car parking requirement for the proposed development in both appeals would be 3 spaces. The drawings for Appeal A show 4 spaces and those for Appeal B 2 spaces. The Highways Authority thus sought amendments to the scheme, and on the basis of the submitted plans and my observations at the site visit I am satisfied sufficient car parking space could be provided to the required standards, subject to the submission of suitable details. I note residents' concerns regarding possible parking on the road, but given the existence of off-street parking for both existing and the proposed dwellings – and the likely low level of traffic for the cul-de-sac – on the basis of the evidence before me I am satisfied that any on-street parking would be minimal and not harmful to highway safety.
14. Both appeals would provide one additional dwelling. The appellants in their Final Comments have referred me to an appeal decision in June 2018 that states the Council is unable to demonstrate a 5 year housing land supply (ref. APP/Q1445/W/17/3177606). The Council have not supplied information in this regard. I have found the proposed development in both appeals would cause harm on the first main issue but, in accordance with the test at paragraph 11d of the National Planning Policy Framework, I must consider whether the adverse impacts would significantly and demonstrably outweigh the benefit of the additional dwelling. It is my conclusion that even if I were to conclude there is a shortfall in the five-year housing land supply as stated by the appellant, the adverse impact to the character and appearance of the area through a grant of planning permission for either Appeal A or Appeal B would significantly and demonstrably outweigh that benefit.
15. For the reasons given both appeals are dismissed.

*C J Leigh*

INSPECTOR



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# Appeal Decision

Site visit made on 30 January 2019

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

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

**Decision date: 15<sup>th</sup> February 2019**

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**Appeal Ref: APP/Q1445/W/18/3217570**

**4 The Park, Rottingdean, Brighton, BN2 7GQ**

- 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 Mark Knight against the decision of Brighton & Hove City Council.
  - The application Ref BH2018/0638, dated 17 August 2018, was refused by notice dated 12 November 2018.
  - The development proposed is proposed alterations and extensions to create a 3 bedroom house.
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## Decision

1. The appeal is allowed and planning permission is granted for alterations and extensions to create a 3 bedroom house at 4 The Park, Rottingdean, Brighton, BN2 7GQ in accordance with the terms of the application Ref BH2018/0638, dated 17 August 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the approved plans and the submitted application form and Design & Access Statement.
  - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 1013-P-102-A, 1013-P-103-A, 1013-P-104-A, 1013-P-105-A, 1013-P-106-A, 1013-P-108-A& 1013-P-101-A.

## Main issues

2. The main issues in this appeal are the effect of the proposed development on, firstly, the character and appearance of the surrounding residential area and, secondly, living conditions of adjoining occupiers.

## Reasons

### *Character and appearance*

3. The appeal property is a bungalow that fronts The Park. This is a distinctive circular layout of properties, but one that does not display uniformity in appearance or style save for dwellings fronting the road: there are bungalows, two storey houses, hipped roofs, gable roofs, dormers, and a notable slope across The Park that means buildings and roof heights also vary considerably. Many properties have been altered or extended. The Park remains an attractive
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residential area, but these features mean there is not a strong or consistent character.

4. The proposed works to No. 4 would see extensions and alterations at both ground floor and the roof. This would substantially alter the building to appear as a flat-roofed two storey property. The new design of the building as a result of these changes would be of high quality. The architects have had close regard to the principles of Modernist design that they seek to follow, and which is seen in the wider area: the shape and positioning of windows is carefully considered between the two floors, with an intervening low parapet at the front elevation and small loggia to the rear.
5. The height of the building would be lower than the adjoining neighbours and so, although appearing as a contrast, would not be dominant over those neighbours. As the appellant points out – and as I saw at my site visit – such a contrast between pitched roof properties and flat-roofed Modernist style properties is a character of the wider Rottingdean and Saltdean area. There would be adequate room retained to the boundaries of the site and between properties to avoid any cramped appearance to the area, given the context within which the appeal property sits.
6. The proposed development would therefore represent a high standard of design that is informed by the context of the site, and would enhance the character and appearance of the area. Thus, it would satisfy the objectives of Policy QD14 of the Brighton & Hove Local Plan 2005, which seek a high standard of design in relation to both extensions to properties and to the surrounding area.

#### *Living conditions*

7. The extended and altered property would adjoin the existing massing of the two adjoining dwellings. Due to the curve in The Park, the siting of those two dwellings mean their orientation is slightly away from No. 4. These matters, and the distance retained between the properties, mean that the proposed side extension and extension at roof level would not lead to a material change in outlook from the adjoining properties.
8. The design of the property at the rear would see new windows at ground and first floor. The orientation of the adjoining houses away from No. 4, the distance to boundaries and intervening buildings and landscaping mean that these windows would not lead to any appreciable degree of overlooking to adjacent houses. The distance to the Grand Crescent properties to the rear is sufficient to ensure no loss in privacy, even having regard to the change in levels.
9. On the second issue it is therefore concluded that the proposed development would not be harmful to living conditions, and so there would not be any conflict with Policies QD14 and QD27 of the Local Plan, which seek to protect the amenity of residents.

#### *Conclusions and conditions*

10. The appeal is therefore allowed. The Council have suggested a condition requiring matching materials, but the submitted drawings, application form and Design & Access Statement when read together indicate that these would not match the existing property. I have therefore modified the condition to refer to the details shown on the submitted information, to achieve a satisfactory

appearance to the development. I have also attached the suggested condition specifying the relevant drawings as this provides certainty.

*C J Leigh*

INSPECTOR

