

<b><u>No:</u></b>	<b>BH2016/02080</b>	<b><u>Ward:</u></b>	<b>Hove Park Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>77 Dyke Road Avenue, Hove, BN3 6DA</b>		
<b><u>Proposal:</u></b>	<b>Erection of 2no five bedroom dwelling with 2no single storey detached garages.</b>		
<b><u>Officer:</u></b>	Helen Hobbs, tel: 293335	<b><u>Valid Date:</u></b>	09.06.2016
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	04.08.2016
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Lewis and Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<b><u>Applicant:</u></b>	Mr Jogi Vig 77 Dyke Road Avenue Hove BN3 6DA		

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor plans and elevations proposed	599/01	B	6 June 2016
Elevations and sections proposed	599/06	A	6 June 2016
Floor plans and elevations proposed	599/07		6 June 2016
Floor plans and elevations proposed	599/08		6 June 2016
Location Plan			6 June 2016
Block Plan Proposed	599/04	C	6 June 2016

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

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

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

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

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

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

- 4 No extension, enlargement or other alteration 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 for this reason would wish to control any future development to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 5 Prior to first occupation of the development hereby permitted a scheme to enhance the nature conservation interest of the site shall have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall accord with the standards described in Annex 6 of SPD 11 and shall be implemented in full prior to the first occupation of the development hereby approved.  
**Reason:** To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with Policy CP10 of the City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 6 The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by the occupants of, and visitors to, the development at all times.  
**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
- 7 Prior to first occupation of the development hereby permitted, dropped kerbs and tactile paving shall have been installed to the western footway of Dyke Road Avenue to the north and south of the junctions with The Spinney and Tongdean 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 City Plan Part One.

- 8 The new 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 City Plan Part One.
- 9 The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.  
**Reason:** To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policy QD27 of the Brighton & Hove Local Plan.
- 10 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 City Plan Part One.
- 11 No works shall take place until full details including plans, showing the final siting of the services and soakaways have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented in conjunction with the Vehicular Access Construction Method Statement within the Arboricultural, Horticultural and Ecological Management Report submitted as part of the original application.  
**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.
- 12 None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).  
**Reason:** To ensure that the development is sustainable and makes efficient use of energy to comply with policy CP8 of the City Plan Part One.
- 13 None of the residential units hereby approved shall be occupied until each residential unit built has achieved a water efficiency standard using not more than 110 litres per person per day maximum indoor water consumption.  
**Reason:** To ensure that the development is sustainable and makes efficient use of water to comply with policy CP8 of the City Plan Part One.
- 14 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 QD15 and QD27 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.

- 15 Before any equipment, materials or machinery are brought onto the site for the purposes of development, a pre-commencement site meeting between the Tree Officer, Arboricultural Consultant and Site Manager shall take place to confirm the protection of trees on and adjacent to the site in accordance with the Arboricultural Impact Appraisal and Method Statement prepared by R W Green Limited ref RWG-NDJ-LPDR. The tree protection shall be positioned as shown on the Tree Protection Plan, R W Green Limited ref: RWG-NDR-16-24 dated April 2016, before any equipment, materials or machinery are brought onto the site for the purposes of the development. The tree protection shall be retained until the development is completed and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the written consent of the Local Planning Authority. This condition shall not be discharged until an arboricultural supervision statement, the contents of which are to be discussed and agreed at the pre-commencement meeting, is submitted to and approved in writing by the Local Planning Authority on completion of development.

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

- 16 No works or development shall take place until a scheme of supervision for the arboricultural protection measures has been submitted to and approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a) Induction and personnel awareness of arboricultural matters
- b) Identification of individual responsibilities and key personnel
- c) Timing and methods of site visiting and record keeping, including updates
- d) Procedures for dealing with variations and incidents.
- e) The scheme of supervision shall be carried out as agreed.
- f) The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority. The development 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 City Plan Part One.

- 17 No works shall take place until full details including plans, showing the final siting of the services and soakaways have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented in conjunction with the Vehicular Access Construction Method Statement within the Arboricultural, Horticultural and Ecological Management Report submitted as part of the original application.

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

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 to be constructed under licence from the Head of Asset and Network Management. The applicant must contact the Streetworks Team (01273 293 366) prior to any works commencing on the public highway.
3. The applicant is advised to contact the Council's Streetworks team (permit.admin@brighton-hove.gov.uk 01273 293366) and obtain all necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of condition 8.
4. The applicant is advised that accredited energy assessors are those licensed under accreditation schemes approved by the Secretary of State (see Gov.uk website); two bodies currently operate in England: National Energy Services Ltd; and Northgate Public Services. The production of this information is a requirement under Part L1A 2013, paragraph 2.13.
5. The water efficiency standard required under condition 13 is the 'optional requirement' detailed in Building Regulations Part G Approved Document (AD) Building Regulations (2015), at Appendix A paragraph A1. The applicant is advised this standard can be achieved through either: (a) using the 'fittings approach' where water fittings are installed as per the table at 2.2, page 7, with a maximum specification of 4/2.6 litre dual flush WC; 8L/min shower, 17L bath, 5L/min basin taps, 6L/min sink taps, 1.25L/place setting dishwasher, 8.17 L/kg

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

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

- 2.1 The application site relates to land rear of a large two-storey dwellinghouse located on the west side of Dyke Road Avenue. The dwelling is detached and includes a hardstanding to the front with a vehicular exit and entrance from Dyke Road Avenue. The site includes a large 'L' shaped rear garden which goes around the rear of 79 Dyke Road Avenue. The garden slopes down from the rear of the house. The site includes a significant number of trees and bushes. In the front garden, there is a group of Beech trees that are covered by a Tree Preservation Order. The surrounding area is predominately comprised of large detached houses set within substantial grounds.

## **3. RELEVANT HISTORY**

**BH2014/03811** Erection of 2no five bedroom dwelling with 2no single storey detached garages. Refused 20/05/2015 for the following reasons:

- 1) The development, by virtue of the proposed footprint and resulting scale and mass, would harmfully alter the character of the backland location and would appear unduly prominent and incongruous in views from the surrounding area. The proposal therefore fails to emphasise and enhance the positive qualities of the local neighbourhood. This harm outweighs the benefit provided by the additional dwellings. The proposal is therefore contrary to policies QD1, QD2 and QD3 of the Brighton & Hove Local Plan.
- 2) The development would be clearly visible from surrounding properties and would appear dominant and overbearing additions in close proximity to the boundaries. The scheme would result in an unneighbourly form of development, a loss of outlook and an increased sense of enclosure for adjacent residential properties. The proposal therefore results in a loss of amenity and is contrary to policy QD27 of the Brighton & Hove Local Plan.
- 3) The site has potential to provide roosting, commuting and / or foraging habitat for bats. A bat survey is therefore required to assess the impact of the development on protected bats. In the absence of this information the proposal is contrary to policy QD18 of the Brighton & Hove Local Plan.

**BH2005/00162/OA:** Outline application for erection of 3 no detached dwellings. Approved 23/02/2007.

**BH2003/01057/OA:** Outline application for erection of 3 No. detached dwellings. Refused 23/06/2004 for the following reason:

- 1) The proposed means of access would result in damage to or destruction of trees subject to a Tree Preservation Order contrary to policies EC20 of the Hove Borough Local Plan and QD16 of the Brighton and Hove Local Plan Second Deposit Draft.

A subsequent appeal against this decision was dismissed 08/06/2005.

#### **4. REPRESENTATIONS**

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

- Access to Dyke Road
- Impact on tress
- Impact on wildlife
- Overlooking
- Loss of privacy
- Scale of dwelling
- Overbearing
- Noise
- Increase in parking/traffic

#### **5. CONSULTATIONS**

5.1 **Ecology:** No Comment

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

5.2 **Environmental Health:** No Comment

5.3 **Sustainable Transport:** Comment

Recommended approval as the Highway Authority has no objections to the above application subject to inclusion of the necessary conditions relating to cycle parking and the creation of the new access and dropped kerb.

5.4 **Arboriculture:** Comment

Development will result in the loss of several trees and shrubs within the rear garden but these are of relatively low arboricultural value and only contribute within the context of the wider landscape.

5.5 Overall there is no objection by the Arboricultural Section provided suitable conditions being attached to any planning consent 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, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP1 Housing delivery
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP12 Urban design
- CP14 Housing density

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

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- QD16 Trees and hedgerows
- QD18 Species protection
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO13 Accessible housing and lifetime homes

#### Supplementary Planning Documents:

- 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 whether the scheme is appropriate in terms of its design and appearance, its impact on the amenity of adjacent properties, highway considerations, impact on trees and ecology, sustainability and standard of accommodation.
- 8.2 The City Plan Part 1 Inspector's Report was received in February 2016. The Inspector's conclusions on housing were to agree the target of 13,200 new homes for the city until 2030 as a minimum requirement. It is against this



minimum housing requirement that the City's five year housing land supply position is assessed annually. The most recent land supply position was published in the 2016 SHLAA Update (February 2017) which demonstrates a 5.6 year supply position. The Council can therefore demonstrate an up to date housing supply position in accordance with the NPPF.

### 8.3 **History of the Site:**

The application site has had a number of recent planning applications. In 2005 an outline application accepted the principle of three detached dwellings on the plot. The 2014 full planning application sought permission for the erection of 2 detached dwellings. This application was refused for the reasons outlined above. The current application is a similar scheme to the 2014 application and the key differences between the 2014 scheme and the current application include;

- Reduction in the scale of the dwellings - reduction in height and removal of a two storey side wing
- Submission of further ecological reports

### 8.4 **Design and Appearance:**

The general design and layout of the site would be similar to that proposed in the 2014 application. The proposed dwellings would face each other to the rear over a new hard landscaped area to provide a parking / turning area. The dwellings would incorporate a large footprint, measuring approximately 16m in length and approximately 14m in width. The dwellings would incorporate a pitched roof with a height of approximately 9m, a reduction of 1.5m from the previously refused scheme. The dwellings would have a traditional appearance with elements of a Mock Tudor and cat slide roofs. There is no objection to the design of the dwellings and a 'traditional' approach is considered appropriate in this location.

8.5 The reduction in height and the alteration of the roof pitch has substantially reduced the mass and bulk at roof level. The removal of the side two storey wing has further reduced the overall scale and mass of the dwellings and whilst they would still form large dwellings, the revised scheme would sit more comfortably within the plot and the reduction in scale has satisfactorily addressed the previous concerns. The dwellings would still be visible from neighbouring properties, however they would no longer appear overly dominant and with the removal of the side wing, the dwellings would be further from southern boundary where the land level is lower.

8.6 The proposal is therefore not considered to significantly harm the character and appearance of the existing site or the surrounding area.

### 8.7 **Impact and Amenity:**

The reduction in height and scale of the proposed dwellings coupled with the separation from the adjoining properties would ensure that the development would not appear overbearing, oppressive or result in a substantial loss of amenity.

- 8.8 Given the location and orientation of the dwellings, the scheme would not result in any direct overlooking of any adjacent properties. Neither of the two houses incorporates side windows which would result in overlooking. Additionally, due to the position of the dwellings, the scheme would not result in any direct loss of light or overshadowing of any adjacent properties. Plot 1 would be approximately 35m from the nearest property to the north, fronting Dyke Road and 28m from the nearest property to the south, fronting Hill Brow. Plot 2 would be approximately 28m from the nearest property to the north, fronting Dyke Road and 44m from the nearest property to the south, fronting Hill Brow.
- 8.9 The scheme includes two garages adjacent to the boundary with Hill Brow properties. The form and scale of the garages would not significantly affect the amenity of any adjacent properties.
- 8.10 The proposal would result in a new side vehicular access which has the potential to result in noise disturbance to adjacent properties. It is though considered that the activity associated with two dwellings, coupled with the relative size of curtilage to nos. 77 and 79 would prevent any harmful levels of noise or disturbance for occupants of these properties.
- 8.11 **Standard of Accommodation:**  
The dwellings would comprise 5 bedrooms, across the first floor and a room in the roof. The rooms sizes are all considered acceptable, and the ground floor living accommodation is sufficient for the potential number of occupiers. All habitable rooms would have sufficient levels of light and outlook.
- 8.12 Both dwellings would be provided with an acceptable level of outdoor amenity.
- 8.13 **Sustainable Transport:**  
A new access will be created on Dyke Road Avenue. The Transport Officer does not object to this new access road. The applicant will be required to apply for a license for the council's Network Coordination team prior to undertaking works on the public highway.
- 8.14 Car parking spaces would be provided for the proposed dwellings and it is not anticipated that substantial overspill parking would be expected. Cycle parking would be provided with the garages. Given the size of these, the nature of the provision is considered appropriate for private dwellings of this nature where the cycle storage is not communal.
- 8.15 The proposals for 2 additional residential units will increase trips above existing levels. However, in order to provide suitable access between the development site and local facilities for users of all abilities, it is recommended that the applicant install dropped kerbs and tactile paving at the junctions of Dyke Road Avenue/Tongdean Road and Dyke Road Avenue/The Spinney. These works will be secured by condition.
- 8.16 **Sustainability:**  
CP8 of the City Plan Part One require new development to demonstrate a high level of efficiency in the use of water and energy. Policy CP8 requires new

development to achieve 19% above Part L for energy efficiency, and to meet the optional standard for water consumption. These standards will be secured by condition.

**8.17 Impact on Trees and Ecology:**

The Arboricultural Section has commented that the Arboricultural report submitted with the application is comprehensive and the Arboricultural Section is in full agreement with its contents. In the front garden of the property and in the vicinity of the proposed new drive way is a group of Beech trees that are covered under G1 of Tree Preservation Order (No 3) 1993.

8.18 The Arboricultural report submitted with the application gives precise and accurate detail on how the new access road can be built over the root plates of these Beech trees without causing the trees any damage.

8.19 The Arboricultural Section would ask that the construction of this new access road be made the subject of a condition attached to any consent granted in order to ensure the retention of the trees post-development.

8.20 Should this application be granted consent, several trees and shrubs not covered by the above Preservation Order will be lost. These specimens are unworthy of Preservation Order and the Arboricultural Section would not object to their loss. These trees are primarily in the groups shown as G3 and G4 within the arboricultural report and are largely formed of mature cypress trees. Whilst these losses are to be regretted a number of them show indications of instability at the base and this has been highlighted by the consultant.

8.21 The Arboricultural Section would ask that all trees and hedging that are to remain on site are protected during the course of the development. Overall, the Arboricultural Section has no objection to the proposals in this application subject to suitable conditions being attached to any planning consent granted.

8.22 Policy QD18 of the Brighton & Hove Local Plan relates to species protection. The policy states that where it is evident that a proposal could directly or indirectly affect a species of animal or plant, or its habitat (including feeding, resting and breeding areas) protected under National legislation, European legislation or categorised as 'a declining breeder', 'endangered', 'extinct', 'rare' or 'vulnerable' in the British 'Red Data' books, the applicant will be required to undertake an appropriate site investigation.

8.23 Measures will be required to avoid any harmful impact of a proposed development on such species and their habitats. Where practicable, the developer will be expected to enhance the habitat of the respective species. Where necessary, a condition will be imposed or a planning obligation sought in order to secure these requirements.

8.24 The County Ecologist has commented on the scheme and states that the submitted Extended Phase 1 report is broadly acceptable. There is no certainty over what enhancements will be provided and neither the Design and Access Statement or the Sustainability Checklist make any reference to biodiversity

enhancements. A condition will therefore be attached to sure further measures are secured on site to enhance the biodiversity of the site.

**9. EQUALITIES**

9.1 None identified.