

<u>No:</u>	BH2018/02558	<u>Ward:</u>	Woodingdean Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	106, 108 & 110 Downs Valley Road Brighton BN2 6RF		
<u>Proposal:</u>	Construction of four detached family houses (C3) together with associated parking, cycle parking and landscaping.		
<u>Officer:</u>	Laura Hamlyn, tel: 292205	<u>Valid Date:</u>	31.08.2018
<u>Con Area:</u>		<u>Expiry Date:</u>	26.10.2018
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Mr Paul Burgess MRTPI 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Mr & Mrs Marie & Tony Smith C/O Lewis & 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 **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:

Plan Type	Reference	Version	Date Received
Location and block plan	PL_011		13 August 2018
Floor Plans Proposed	PL_012		13 August 2018
Floor Plans Proposed	PL_013	B	31 August 2018
Roof Plan Proposed	PL_014		13 August 2018
Sections Proposed	PL_015		13 August 2018
Elevations Proposed	PL_016		13 August 2018
Elevations Proposed	PL_017		13 August 2018
Elevations Proposed	PL_018		13 August 2018
Location and block plan	PL_001		13 August 2018
Elevations Proposed	PL_019		13 August 2018
Elevations Proposed	PL_020		13 August 2018
Sections Proposed	PL_022		13 August 2018
Floor plans/elevations/sect proposed	PL_023		13 August 2018
Statement	PLANNIN G		13 August 2018
Design and Access Statement			13 August 2018

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

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:

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.

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.

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.

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.

106 Downs Valley Road

BH2014/02531 Erection of building for use as cattery. Approved 10/12/201.

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.

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.

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: No objection

No objection, subject to securing details of the proposed cycle parking by condition, construction of the crossover and access prior to first occupation, and sustainable transport contributions towards bus stop and/or footway improvements of £6,000.

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
 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

7. CONSIDERATIONS & ASSESSMENT

7.1 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.

7.2 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.

7.3 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.

7.4 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.

7.5 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).

7.6 In principle, backland development could be accepted in this location, subject to other material planning considerations set out below.

7.7 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.

7.8 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.

7.9 The proposal is for 4no 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.

- 7.10 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.
- 7.11 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.
- 7.12 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.
- 7.13 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.
- 7.14 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.
- 7.15 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.
- 7.16 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.
- 7.17 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.

Standard of Accommodation

- 7.18 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.
- 7.19 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.
- 7.20 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.
- 7.21 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.
- 7.22 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.
- 7.24 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.
- 7.25 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.

- 7.26 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.
- 7.27 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.
- 7.28 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.
- 7.29 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.
- 7.30 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.
- 7.31 Sustainable Transport
If the proposal had been considered otherwise acceptable, conditions would have been applied to secure further details of the proposed cycle parking, and the implementation of the crossover and access. In addition a sustainable transport contribution of £6,000 would have been sought.
- 7.32 While only one car parking space is shown to the front of each proposed dwelling, it would appear that two cars could be accommodated on the proposed hardstanding. This would exceed the maximum standard set out in SPD14 for 3-bedroom dwellings in the Outer Area. If the proposal had been

considered otherwise acceptable, a landscaping condition would have been applied to control the amount of car parking available.

- 7.33 Hardstanding is proposed to the front of the existing bungalows and would provide two parking spaces each to the existing dwellings. If the proposal had been considered otherwise acceptable, a condition would have been applied to ensure the hardstanding would make provision for sustainable drainage.
- 7.34 The kerb to kerb width of the road appears to be 2.7m. This may not constitute satisfactory access for fire appliances as required by Section B5 of the Approved Document to the Building Regulations and Section 35 of the East Sussex Act 1981 which states that there should be a vehicle access for a pump appliance to within 45m of all points within each dwelling. The 40m length of the access lane is also of concern, with cars either having to reverse a significant distance, or crossing onto the footpaths. If crossing onto the footpaths, cars would be passing in even closer proximity to the existing dwellings at nos. 108 and 110. However it is noted that Highways do not object on these grounds, nor did this constitute a reason for refusal of the previous application.
- 7.35 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. CONCLUSION

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.

- 8.1 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.

9. EQUALITIES

- 9.1 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).