

<b><u>No:</u></b>	<b>BH2019/01183</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>44 The Cliff Brighton BN2 5RE</b>		
<b><u>Proposal:</u></b>	<b>Hard landscaping for the creation of a sunken garden. The proposals also incorporate: the extension of an existing decked area and retaining walls; and associated works. (Part Retrospective).</b>		
<b><u>Officer:</u></b>	Michael Tucker, tel: 292359	<b><u>Valid Date:</u></b>	30.05.2019
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	25.07.2019
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Dowsett Mayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		
<b><u>Applicant:</u></b>	Dr A Paoella C/O Agent Dowsett Mayhew Planning Partnership 63A Ship Street Brighton BN1 1AE		

## 1. RECOMMENDATION

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

### Conditions:

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

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

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Existing Drawing	2137.01	-	17 April 2019
Existing Drawing	2137.02	-	17 April 2019
Proposed Drawing	2137.01	A	9 August 2019

### 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. It is advised that the permission hereby granted relates only to the excavation works and the terraced area. The two new outbuildings that are shown on the approved drawing 2137/01A require a separate application for planning permission.

## 2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application relates to a two-storey property on the southern side of The Cliff.
- 2.2. Part-retrospective planning permission is sought for engineering operations including the excavation of the rear garden to enable the creation of a sunken garden, as well as the enlargement of an existing terrace area. The excavation works have been carried out, whilst the terrace is yet to be completed.

### 3. RELEVANT HISTORY

None identified.

#### Planning Enforcement

- 3.1. ENF2018/00465 - Excavation of rear garden and creation of dwellinghouses in rear. Under investigation.
- 3.2. ENF2017/00026 - Outbuilding in garden - contains kitchen, bathroom with drainage, living room & bedroom (s). Case closed.

### 4. REPRESENTATIONS

- 4.1. **Eight (8)** representations have been received, objecting to the proposal for the following reasons:
  - Inappropriate height of development
  - Noise
  - Poor design
  - Too close to boundary
  - Loss of privacy
  - Outbuildings used as separate planning units
  - Misuse of public sewer
  - Retaining walls not strong enough
  - Additional traffic
  - Detrimental effect on property value
  - Overdevelopment
  - Overshadowing
  - Restriction of view
  - Excessive build-up of mounds of earth on boundary
  - Breach of covenants
  - Main house in use as an HMO
  - Adversely affects conservation area
  - Misuse of access road by golf course
  - Damage to trees
  - Three dwellings built in garden
  - Lack of engineering drawings and diagrams to demonstrate strength of retaining walls
  - Damage to golf course
  - Asbestos manhole disturbed

## **5. CONSULTATIONS**

### **5.1. Brighton & Hove Archaeological Society: Comment**

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

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

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

### **5.4. County Archaeology: No objection**

Although this application is situated within an Archaeological Notification Area, 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.

## **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);

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.

## **POLICIES**

### **The National Planning Policy Framework (NPPF)**

#### **Brighton & Hove City Plan Part One**

SS1 Presumption in Favour of Sustainable Development

CP12 Urban design

CP15 Heritage

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

QD14 Extensions and alterations

QD15 Landscape design

QD27 Protection of amenity

HO5 Provision of private amenity space in residential development

HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD12 Design Guide for Extensions and Alterations

## **CONSIDERATIONS & ASSESSMENT**

The main considerations in the determination of this application relate to the design and appearance of the proposed works, the impact of the proposal on neighbouring amenity and the archaeological implications of the proposed excavation.

### **Design & Appearance:**

The area that has been excavated is located at the southern half of the elongated rear garden, separated from the main house by a considerable distance. A roughly rectangular area of approx. 400sqm has been excavated to a depth of approx. 1.9m to create a sunken garden.

No objection is raised to this excavation. Due to the high boundary treatments of the site the excavated area is not visible from neighbouring properties, the pitch-and-putt course or the A259 and as such there is no harmful visual impact arising from the excavations.

The extended terrace area has been amended since the initial submission of the application, with the proposed terrace reduced in area and altered in layout to better reflect the pre-existing layout. As amended, the proposal involves the southwards extension of the upper-tier terrace adjacent to the existing outbuilding by 3m for a width of 6.5m. The extended terrace is in brickwork with a glass balustrade and is considered not to have a harmful visual impact on the appearance of the site or the wider area.

### **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.

The impact on the adjacent properties has been fully considered in terms of daylight, sunlight, outlook and privacy following a site visit and no significant harm has been identified.

### **Archaeology:**

Although this application is situated within an Archaeological Notification Area, it is unlikely that any significant archaeological remains are likely to be affected by these

proposals. It is therefore considered that the proposal is in accordance with policy HE12 of the Brighton and Hove Local Plan.

**Other Considerations:**

Public representations have raised a number of concerns over the works and the manner in which they have been carried out, including concerns over the strength of the retaining walls and the use of the side passageway for access to the site, misuse of a public sewer and damage to trees. In addition, concerns have been raised that the outbuilding may be in use as self-contained residential units.

Many of these issues, whilst being of considerable importance, fall outside of the remit of the planning regime and as such have not been considered in the assessment of this application. It is understood that, in addition to the open Planning Enforcement case, separate investigations by the Estates team and Building Control are currently underway. Furthermore, the Council has obstructed access to the site via the Council-owned side passage through the placement of concrete blocks, and the spoil that was dumped on Council land has been removed.

With regard to the concerns that do fall within the planning regime, the site is not covered by a Tree Preservation Order or located within a Conservation Area and as such the removal of trees on the site, whilst regrettable, does not require consent.

Two new outbuildings have been constructed, adjacent to the existing L-shaped outbuilding. These outbuildings do not form part of this application and as such have not been assessed; however it is likely that planning permission would be required as the property does not benefit from Permitted Development rights. The outbuildings are currently under investigation as part of the open Planning Enforcement case.

**EQUALITIES**

None identified.

