

<b><u>No:</u></b>	<b>BH2019/01602</b>	<b><u>Ward:</u></b>	<b>Withdean Ward</b>
<b><u>App Type:</u></b>	<b>Removal or Variation of Condition</b>		
<b><u>Address:</u></b>	<b>Kingsmere (Blocks E &amp; F) London Road Preston Brighton BN1 6UW</b>		
<b><u>Proposal:</u></b>	<b>Variation of conditions 2, 3, 6 and 7 of application BH2015/02713 (Roof extension to Blocks E &amp; F to provide 8no flats each with own private roof garden.) to allow amendments to approved drawings, confirm external materials and design of secure cycle storage.</b>		
<b><u>Officer:</u></b>	Jack Summers, 296744	tel: <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>	DowsettMayhew Planning 63A Ship Street Brighton BN1 1AE		
<b><u>Applicant:</u></b>	Spurpoint Ltd C/o DowsettMayhew 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.

Plan Type	Reference	Version	Date Received
Proposed Drawing	A1211/07	M	25 October 2019
Proposed Drawing	A1211/06	E	25 October 2019
Proposed Drawing	A1211/08	M	25 October 2019
Proposed Drawing	A1211/09	K	25 October 2019
Proposed Drawing	A1211/10	F	25 October 2019
Proposed Drawing	A1211/12	F	25 October 2019
Proposed Drawing	A1211/13	F	25 October 2019
Location Plan	-	-	14 August 2015

2. The materials to be used in the construction of the external surfaces of the development shall be as follows, matching the materials previously approved under application BH2019/00183:
- The penthouse walls shall be finished in KRend Silicone Thin Coat Limestone White
  - The balustrade shall feature glazed panels with unpainted steel frames
  - The fenestration shall have white powder-coated aluminium frames
  - The fascia and soffit boards shall be Pigmento brown VM Zinc

**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.

3. 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.

4. 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.

5. The dwellings hereby permitted shall be constructed in compliance with the Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) details as set out on approved floorplans A1211/13 Rev F only prior to first occupation and shall be retained as such thereafter.

**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.

6. The cycle parking facilities approved under application BH2016/02486 shall 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 and CP9 of the Brighton & Hove City Plan Part One.

7. 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.

**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 four storey block of flats (joint blocks E and F) within Kingsmere, a collection of blocks on the east side of London Road, on the edge of (but not within) the Preston Park conservation area.
- 2.2. Planning permission has been granted for an additional storey on the existing block, and now permission is sought to amend the approved plans to allow for an increase in floor space.
- 2.3. This application follows the original permission (Ref: BH2015/02713) and two separate Section 73 Minor Material Amendment applications (Refs: BH2017/03779 and BH2018/00659). The blocks E & F to which this application relate to is part of the wider Kingsmere estate, each block of which has been granted planning permissions for new storeys featuring penthouse flats, most of which have subsequently been amended with Section 73 Minor Material Amendment applications. This compartmentalized approach to the wider development of the estate has resulted in a convoluted site history which the developers have previously been advised is not conducive with good planning.
- 2.4. Several of the original planning permissions for these additional storeys (Refs: BH2012/03673 for Blocks A & B, BH2016/02841 for Block C, BH2015/01454 for Block D and BH2015/02713 for Blocks E & F) came in before the implementation of the City Plan Part One and the policy of securing affordable housing within schemes that would create five or more residential units, meaning that although twenty new residential units have been granted permission across the estate, the developer has not been required to include any affordable housing.
- 2.5. The principle of an additional storey has been previously agreed and it is the right of the developer to amend the existing permission rather than apply for Full Planning permission again. Having taken legal advice, it is considered that development approved under the original permission, BH2015/02713, has been commenced with the construction of the bicycle parking block and thus the original permission remains extant despite the length of time since that permission was originally granted and the fact that no development of the additional storey itself appears to have taken place to date.
- 2.6. The current proposal takes into account all previous site history and includes all necessary planning conditions from previous permissions.

## **3. RELEVANT HISTORY**

- 3.1. **BH2019/00183** Application for Approval of Details Reserved by Condition 3 of application BH2018/00659. Approved

- 3.2. **BH2018/00659** Variation of condition 2, 3 and 6 of application BH2016/00254 (Application for removal of condition 6 of application BH2015/02713 (Roof extension to Blocks E & F to provide 8no flats each with own private roof garden) which states that the development shall not be occupied until Building Regulations Optional Requirement M4(2) has been obtained.) to allow amendments to approved drawings. Approved
- 3.3. **BH2017/03779** Application for the variation of Conditions 2, 3 and 6 of application BH2016/00254 (Application for removal of condition 6 of application BH2015/02713 (Roof extension to Blocks E & F to provide 8no flats each with own private roof garden) which states that the development shall not be occupied until Building Regulations Optional Requirement M4(2) has been obtained.) to confirm materials and allow amendments to the approved drawings including the installation of aluminium bi-folding doors leading onto private roof gardens. Approved
- 3.4. **BH2016/00254** Application for removal of condition 6 of application BH2015/02713 (Roof extension to Blocks E & F to provide 8no flats each with own private roof garden) which states that the development shall not be occupied until Building Regulations Optional Requirement M4(2) has been obtained. Approved
- 3.5. **BH2015/02713** Roof extension to Blocks E & F to provide 8no flats each with own private roof garden. Approved

#### **4. CONSULTATIONS**

##### **4.1. Transport**

No Objection

##### **4.2. Private Sector Housing**

No Comment

#### **5. REPRESENTATIONS**

##### **5.1. Nine 9no. letters have been received, objecting to the proposal on the following grounds:**

- The proposal is an entire new storey, not the penthouses and roof terraces previously approved
- The proposal should be dealt with as a new application for planning permission and not as a variation on an existing permission, due to the scale of the additional works proposed
- Overshadowing the local residential properties
- The additional storey will cause harm to the character of the Kingsmere estate
- Safeguarding concerns regarding the pupils at the nearby school, due to additional residents and the building works themselves.
- Disruption to the day-to-day operation of the nearby school by the building works

## **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);
  - Shoreham Harbour JAAP (adopted October 2019);
- 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
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP12	Urban design
CP14	Housing density
CP15	Heritage

#### 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
QD18	Species protection
QD27	Protection of amenity
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE6	Development within or affecting the setting of conservation areas

## **8. CONSIDERATIONS & ASSESSMENT**

- 8.1. The principle of the development cannot be assessed. The considerations in the determination of this application relate to the proposed amendment of conditions 2, 3, 6 and 7. These include the impact of the proposal on the character and appearance of the local built environment including the nearby Preston Park conservation area. Also of consideration is the potential impact on the amenities of local residents. The potential impact caused by the building works themselves is not a material planning consideration to be given any weight in the assessment of the propriety of this proposal.
- 8.2. When considering whether to grant planning permission for development that could affect the historical significance of a conservation area the council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 8.3. Case law has held that the desirability of preserving a listed building or its setting or the character or appearance of a conservation area must be given "considerable importance and weight".
- 8.4. The proposal represents a further increase in the internal floor-space over what was most recently approved in 2019 (Ref: BH2018/00659). Paragraph 130 of the National Planning Policy Framework states: *"Local planning authorities should...seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme..."*.
- 8.5. The application as submitted proposed what was considered to be a full additional storey with minimal set back and a fenestration pattern that related poorly to the existing building. Amendments have been secured reducing the scale of the proposal and amending the fenestration pattern. The original application description, to which a minor material amendment is sought, is *"Roof extension to Blocks E & F to provide 8no flats each with own private roof garden."* To remove the private roof gardens from the proposal would not be considered a minor material amendment to the existing permission and would require a new application for full planning permission.
- 8.6. This notwithstanding, the applicant has been advised that no further enlargements to the internal floor-space are likely to be granted as it would lead to the proposal appearing as another complete storey and not as a suitably subservient addition to the original building.

**Principle of Development:**

- 8.7. The principle of the creation of eight new residential units has been agreed and only the amended aspects of the scheme need be considered in this instance. These include the:
- Variation of Condition 2 to allow for amended drawings which show an enlarged floor area for the eight new penthouse flats.
  - Variation of Condition 3 to confirm the materials to be used in the construction of the top storey. These have previously been agreed under the Approval of Details Reserved by Condition application Ref: BH2019/00183.

- Variation of Condition 6 to confirm that the new flats will be built in compliance with the Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) details. This variation to the wording of the standard condition has previously been found acceptable under permission BH2016/00254 when it was discovered that conversion of the existing building was not practicable, and now only the new flats will be required to be built to the Requirement M4(2).
- Variation of Condition 7 to require the as built secure cycle parking to be retained on site, rather than for new details be submitted for approval by the Local Planning Authority.

**Design and Appearance:**

- 8.8. The appearance of the proposal is considered to be acceptable. Having noted the design approved under permission BH2018/00659 it is considered that the increase in floor-space will not have any additional visual impact upon the appearance of the host building or wider streetscene given its retention of some set-back and its height and distance from the adopted highway.
- 8.9. Acceptable external materials have previously been approved under application BH2019/00183 and the agent has confirmed that these can be secured by condition in order to ensure a satisfactory appearance.

**Impact on Amenity:**

- 8.10. The principle of the additional storey and rooftop terraces has been approved under application BH2015/02713. The enlargement of the roof extension and subsequent reduction in the size of the roof terraces is not considered to lead to an unacceptable rise in the impact on the amenities of nearby neighbouring properties. A reduced terrace area may reduce the potential for noise/disturbance to other residents when the terraces are in use.
- 8.11. The additional bulk of the proposal is not so significant that it is likely to cause any unacceptable overshadowing to other residential units in the vicinity.

**Standard of Accommodation:**

- 8.12. The proposal would lead to an increase in the internal spaces of each residential flat, which is acceptable. This would be an improvement over the previous Section 73 Minor Material Amendment Ref: BH2017/03779.

**Other Considerations:**

- 8.13. Since November 2019 the Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bees. Given the rendered finish of the proposal it is not considered necessary to secure the inclusion of one or more bee bricks within the development in this instance.
- 8.14. Secure cycle parking that can accommodate the residents of this development has been constructed on site and its retention will be secured

by condition in order to ensure local residents have access to more sustainable modes of transport than private motor vehicles.

**9. EQUALITIES**

- 9.1. The proposed floor plans demonstrate that the proposal is in accordance with Lifetime Homes Compliance, and construction in accordance with the approved floor plans shall be secured by condition.