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| <u>No:</u> | BH2021/04003 | <u>Ward:</u> | Hove Park Ward |
| <u>App Type:</u> | Outline Application Some Matter Reserved | | |
| <u>Address:</u> | 295 Dyke Road Hove BN3 6PD | | |
| <u>Proposal:</u> | Outline Application with some matters reserved for the erection of 1no single dwelling on land to the rear of existing dwelling, including enlargement of existing vehicular crossover and creation of access driveway to southern boundary. | | |
| <u>Officer:</u> | Jack Summers, tel: 296744 | <u>Valid Date:</u> | 11.11.2021 |
| <u>Con Area:</u> | None | <u>Expiry Date:</u> | 06.01.2022 |
| <u>Listed Building Grade:</u> | | <u>EOT:</u> | |
| <u>Agent:</u> | MortonScarr Architects 47 Middle Street Brighton BN1 1AL | | |
| <u>Applicant:</u> | Mr Godarz Nekoei 295 Dyke Road Hove BN3 6PD | | |

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 |
|-------------------------|------------------|----------------|----------------------|
| Location and block plan | 2110(10)000 | B | 11 November 2021 |
| Proposed Drawing | 2110(11)000 | E | 14 March 2022 |

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or two years from the approval of the last of the reserved matters as defined in condition 3 below, whichever is the later.

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) layout;
 - (ii) scale;
 - (iii) appearance;
 - (iv) landscaping (including trees)
- 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. No development above ground floor slab level of any part of the development hereby permitted shall take place until details 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.
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.
5. 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 and CP11 of the Brighton & Hove City Plan Part One, and DM43 of the Brighton & Hove City Plan Part Two.
6. 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 it 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 policies HO13 of the Brighton & Hove Local Plan, and DM1 of the Brighton & Hove City Plan Part Two.
7. At least one bee brick shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
8. At least three swift bricks/boxes shall be incorporated within the external surface of the development hereby approved and shall be retained thereafter.
Reason: To enhance the biodiversity of the site and to comply with Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
9. The development hereby permitted shall not be occupied 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 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, 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.

10. The dwellinghouse hereby approved shall not be occupied until it has achieved:
 - a) an energy efficiency standard of a minimum of 19% CO₂ improvement over Building Regulations requirements Part L 2013 (TER Baseline).
 - b) a water efficiency standard of a minimum 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 energy and water to comply with policies SA6 and CP8 of the Brighton & Hove City Plan Part One.

11. 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 policies TR14 of the Brighton & Hove Local Plan; CP9 of the Brighton & Hove City Plan Part One; and DM33 of the Brighton & Hove City Plan Part Two.

12. The development hereby permitted shall not be occupied until the extended crossover and access has been constructed. The crossover and access shall thereafter be maintained for the use of the development.

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.

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 reserved matters part (iv) should contain the following information:
 - 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. This schedule should include one or more disease-resistance elm trees as requested by the Arboriculture Officer.

- c) details of all boundary treatments to include type, position, design, dimensions and materials.
3. 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'.
4. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
5. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place.
6. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.
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 water efficiency standard required by condition 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.
9. 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 the Police approved Secure By Design cycle stores, "bunkers" and two-tier systems where appropriate.

10. 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 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.

2. SITE LOCATION

- 2.1. The application relates to a property containing a two-storey detached dwellinghouse, located on the western side of Dyke Road. The site has a relatively long back garden containing a swimming pool and paved area, enclosed by trees/foilage and fences. The site is not in a conservation area, or otherwise subject to any designations.
- 2.2. It had previously been home to a mature elm tree in the southeast corner of the site, adjacent to the public footway, but this has been removed after reportedly contracting Dutch Elm Disease.

3. RELEVANT HISTORY

- 3.1. **BH2018/00341** Outline application with some matters reserved for the erection of 1no single dwelling (C3). Approved

4. RELEVANT HISTORY AT OTHER SITES

- 4.1. **BH2014/02755 - Land rear of no.285 Dyke Road** Erection of three bedroom detached bungalow with access from The Droveaway. Refused - Appeal Allowed

5. APPLICATION DESCRIPTION

- 5.1. Outline permission is sought for the subdivision of the plot in order to facilitate the erection of a dwellinghouse to the rear of the property.
- 5.2. The application seeks approved in principle for the provision of an additional dwelling on the plot along with access arrangements. All other matters, which include appearance, landscaping layout and scale, are reserved for further approval.

6. REPRESENTATIONS

- 6.1. Eleven representations have been received objecting to the proposal on the following grounds:
 - Damage to trees and other vegetation in neighbouring gardens
 - Harm to the character of the local area as a result of the subdivision of the land
 - Detrimental impact on property value
 - The proposed development could set a harmful precedent
 - Lack of detail with regards to appearance of the proposed dwellinghouse
 - Impact on residential amenities for the following reasons:
 - Loss of privacy
 - Overbearing
 - Overshadowing
 - Noise nuisance
 - Additional vehicular traffic
 - Impact from the construction process
 - A dwellinghouse of two or more storeys would be unacceptable
 - Change in policy context since last approved application

7. CONSULTATIONS

- 7.1. **Arboriculture**
No objection. It is requested that a disease-resistant Elm be planted somewhere on the site to replace the one that has been removed to continue the TPO.
- 7.2. **Transport**
No objection subject to the recommended conditions and informatives, regarding the extended vehicle crossover, hard surfaces, and cycle parking.

8. MATERIAL CONSIDERATIONS

- 8.1. 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.

- 8.2. 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 Joint Area Action Plan (JAAP) 2019.
- 8.3. 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.

9. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

| | |
|------|--|
| SS1 | Presumption in Favour of Sustainable Development |
| SA6 | Sustainable Neighbourhoods |
| CP1 | Housing Delivery |
| 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 |
| CP19 | Housing Mix |

Brighton & Hove Local Plan (BHLP) (retained policies March 2016)

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|------|---|
| TR7 | Safe Development |
| TR14 | Cycle access and parking |
| SU10 | Noise nuisance |
| 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 |

East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan (WMP)

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|------|----------------------------------|
| WMP3 | Implementing the Waste Hierarchy |
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Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part Two do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23rd April 2020, when the Plan was agreed for submission to the Secretary of State,

it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

| | |
|------|--|
| DM1 | Housing Quality, Choice and Mix |
| DM18 | High quality design and places |
| DM20 | Protection of Amenity |
| DM22 | Landscape Design and Trees |
| DM33 | Safe, Sustainable and Active Travel |
| DM37 | Green Infrastructure and Nature Conservation |
| DM43 | Sustainable Drainage |
| DM44 | Energy Efficiency and Renewables |

10. CONSIDERATIONS & ASSESSMENT

10.1. The main considerations in the determination of this application relate to the principle of the development; the design and appearance of the proposed development; the standard of accommodation that would be offered to future residents; and the potential impacts on the amenities of local residents; and on highway safety and road capacity.

10.2. The application seeks outline planning permission with all matters except access reserved. This means that details of appearance, layout, scale and landscaping have not been provided, but will be submitted as 'reserved matters', if the application is approved. The application seeks only to establish whether the principle of providing a dwelling at the rear of 295 Dyke Road, using the access shown on the plans, is acceptable.

Principle of Development

10.3. Policy CP1 sets out the housing targets for the plan period with a provision target of 13,200 new homes for the city up to 2030. The council's most recent housing land supply position against this minimum target was published in the SHLAA Update 2020 and shows a five-year housing supply shortfall of 342 (equivalent to 4.7 years of housing supply).

10.4. However, on 24th March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. In addition, following an amendment to the standard method set out in national planning practice guidance, from 16th June 2021 onwards Brighton & Hove is required to apply an additional 35% uplift as one of the top 20 cities in the urban centres list.

10.5. The local housing need figure for Brighton & Hove using the standard method (including the 35% uplift) is 2,331 homes per year which gives a five-year housing supply shortfall of 6,604 (equivalent to 2.2 years of housing supply).

- 10.6. As the council is currently unable to demonstrate a five year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 10.7. The principle of subdivision of the site to create an additional dwelling has been agreed with the granting of outline permission BH2018/00341. Whilst objections have noted that the situation has changed so the application should be refused, it is not considered that circumstances or policy have changed in any material way that means that the principle of development can reasonably be confused. The two mature trees at the front of the site that were a constraint for development are no longer present, and the city's five year housing land supply is significantly lower than it was in October 2018, when outline permission was granted.
- 10.8. Since October 2018 the Government has published amendments to the NPPF and, at local level, the Brighton & Hove City Plan Part Two is nearing adoption, with many of its policies now able to be given significant weight in the planning balance. Neither the revised NPPF or City Plan Part Two policies fundamentally affect the acceptability of the principle of the scheme in any way.
- 10.9. Concerns have been raised that if outline permission is granted for the proposed development that it could set a harmful precedent. Each planning application is assessed on its own merits; therefore, this concern would not justify withholding planning permission.
- 10.10. On this basis the provision of a house at the rear of 295 Dyke Road is considered acceptable in principle.

Design and Appearance

- 10.11. No detailed drawings of the proposed dwelling have been provided for consideration, although an indicative site plan and site sections have been included. The only detailed matter to be considered is the proposed access,
- 10.12. It is considered that a modestly scaled property could be accommodated within the plot. While the footprint and height shown on the indicative plans would be considered an overdevelopment of the site, it is considered that a smaller scale property, with greater distance to the side boundaries would be acceptable. The drawings are indicative, and the height, form and scale of the development would be dependent on the details considered under reserved matters so on this basis, the scheme is considered acceptable. Amended drawings have been received that have removed reference to the proposed building height (in terms of storeys).
- 10.13. At the time of the previous application, back-land development was granted on appeal at no.285 Dyke Road (ref. BH2014/02755) and has now been constructed. Though each planning application is assessed on its own merits, weight must be given to this appeal decision, and it is not considered that subdivision of one of the large residential plots of land has caused any significant

harm to the character of the streetscene in the instance of the works at no.285, and nor would it be the case at the current application site. Other back-land development in the area includes nos. 1a and 1b Onslow Road, which have been built in what was previously the rear gardens of nos. 307 and 309 Dyke Road. Permission has also been granted for a new dwellinghouse in the land to the rear of no.308 Dyke Road.

- 10.14. On this basis, the principle of the development of a single dwelling on this plot is considered acceptable in terms of its design and appearance.

Impact on Amenities

- 10.15. The proposed dwelling would be situated to the rear of the existing dwelling which would still retain approximately 305m² of rear garden. The distance between the existing dwelling and that proposed would measure approximately 21m, so although there would be some mutual overlooking this is not unusual in a residential area and would not be considered to be of a degree that would warrant the refusal of the application.

- 10.16. It is considered that a modestly-scaled property could be accommodated within this plot which would not result in significant harm in terms of overshadowing, loss of outlook, increased sense of enclosure or loss of privacy. Each additional storey would intensify any impacts on the amenity of neighbouring properties. However, the impacts would be dependent on the details which would be considered in a future application for reserved details, including relating to boundary treatments and planting.

- 10.17. Whilst the proposal would result in an intensification of the use of the site, it is not considered that this would result in any significant harm in regard to noise and disturbance relationship with neighbouring properties to other dwellings within the street.

- 10.18. Concerns have also been raised that the vehicle movements associated with a new dwelling would be harmful to the amenities of local residents in terms of noise nuisance and pollution. Dyke Road is a very busy road and one of the main thoroughfares leading into and out of the city, so background noise from vehicles is a near constant. It is not considered that the vehicle movements associated with a single dwellinghouse would be so disruptive or polluting that it would justify withholding planning permission. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received.

Impact on the Highway Capacity and Road Safety

- 10.19. It is not forecast that the proposed development would result in a significant increase in vehicle trip generation as a result of these proposals therefore any impact on highway capacity would be minimal.

- 10.20. Parking would be considered as part of the detailed layout which would be considered under reserved matters. However, the indicative site plans shows that there is potentially space for a garage and for vehicles to park and turn in

front of the proposed. Two cycle parking spaces would be required for this development, and this can be secured by condition.

- 10.21. It is proposed that the northern crossover is retained for use by the existing dwelling which is considered acceptable. The existing southern crossover would be retained to provide access to a proposed driveway bordering the southern boundary of the site. A new boundary fence would be constructed between the driveway and the existing property at no.295 Dyke Road. This is considered acceptable. A planning condition will be included to require the extended southern crossover to be fully completed before the new dwelling is occupied, in the interest of highway safety.

Standard of Accommodation

- 10.22. Floor plans have not been provided, and the standard of accommodation cannot therefore be fully assessed. However, it is considered that the plot could provide a layout which would provide a satisfactory standard of accommodation subject to the layout and external private amenity area. Adequate outlook should also be achievable, although no indications of window positioning have been provided for assessment.

Other Considerations

- 10.23. Planning conditions will be included with any permission to ensure that the proposed dwellinghouse achieves sustainability targets with regards to energy and water usage.
- 10.24. The Arboriculture Officer has no concerns with any development within the rear garden subject to a good landscaping scheme. They have requested that one or more disease-resistant elm trees are planted within the site to replace those which have been lost at the front of the site, and the agent for the applicant has indicated this would likely be acceptable to the applicant. Such measures would be secured within a landscaping scheme that makes up part of the reserved matters.
- 10.25. 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 bumblebees and swifts. A suitably-worded condition will be attached to secure an appropriate number of bee bricks and swift bricks within the proposal in order to help meet the requirements of policy CP10 of the City Plan Part One.

Conclusion

- 10.26. The principle of subdividing the land and erecting a new dwellinghouse on the land is considered to be acceptable, as is the method of access to and from the site. Planning conditions will be attached with mind to the further information to be secured through the reserved matters to ensure the final proposed scheme is acceptable in terms layout, scale, appearance, and landscaping. For the foregoing reasons the proposal is considered to be in accordance with policies SA6, CP1, CP8, CP9, CP10, CP11, CP12, CP13 and CP14 of the Brighton and Hove Local Plan; and TR7, TR14, SU10, QD15, QD16, QD27, HO5 and HO13 of the City Plan Part One.

- 10.27. It is also considered that the proposal would be in accordance with policies DM1, DM20, DM22, DM33, DM37 and DM43 of the Proposed Submission City Plan Part Two which is gathering weight. Policies DM1, DM22, DM33 and DM43 are considered to have significant weight at this stage and policy DM20 is considered to have more weight than the adopted Local Plan policy QD27.

11. EQUALITIES

- 11.1. The site appears to offer level access from the public highway to the front of the indicative dwelling; this is considered acceptable. Further plans, demonstrating level access to the dwelling itself shall form part of the reserved matters. The design of the new dwelling should seek to achieve the requirements of Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings).

12. CLIMATE CHANGE/BIODIVERSITY

- 12.1. The proposed development would allow a more efficient use of a brownfield site, reducing the need for development elsewhere. Planning conditions will be included to ensure sustainability targets are achieved, and biodiversity measures are included within the design.