

<b><u>No:</u></b>	<b>BH2021/03074</b>	<b><u>Ward:</u></b>	<b>North Portslade Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Henge Way, Portslade (Land Next To 2 Brackenbury Close Portslade BN41 2ES)</b>		
<b><u>Proposal:</u></b>	<b>Erection of two storey dwellinghouse (C3) with hardstanding and creation of vehicle crossover (retrospective: required due to non-compliance with Condition 1 of BH2019/01409)</b>		
<b><u>Officer:</u></b>	<b>Sven Rufus, tel: 292454</b>	<b><u>Valid Date:</u></b>	<b>04.10.2021</b>
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Expiry Date:</u></b>	<b>29.11.2021</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	<b>N/A</b>		
<b><u>Applicant:</u></b>	<b>Packham Construction 89 Church Road Hove BN3 2BB</b>		

## 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>
Location Plan	1190/L/1		19 August 2021
Block Plan	1190/B/1	B	19 August 2021
Proposed Drawing	2020/173		1 April 2022
Proposed Drawing	1190/SV/1		1 October 2021
Proposed Drawing	17740121		1 October 2021

2. Cycle storage should be provided in accordance with the details approved under BH2021/00240. The development hereby permitted shall not be first occupied until the approved cycle parking facilities 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 and SPD14: Parking Standards.

3. The development hereby approved shall not be occupied until a bee brick has been incorporated within an external wall of the development hereby approved. This shall be in accordance with details submitted to and approved in writing by the Local Planning Authority. Once installed, the bee brick 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.
4. The new dwelling hereby permitted shall not be occupied until the dwelling(s) hereby permitted have been completed in compliance with Building Regulations Optional Requirement M4(2) (accessible and adaptable dwellings) and 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 policy HO13 of the Brighton & Hove Local Plan.
5. Tree protection measures shall be provided throughout development until the works are completed, in accordance with the details approved under BH2021/00240.  
**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, CP12 of the Brighton & Hove City Plan Part One, Policy DM22 of Submission City Plan Part 2 and SPD06:Trees and Development Sites.
6. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on plan 1190/B/1 Rev. B received on the 19th August 2021, have been fully implemented and made available for use. These facilities shall thereafter be retained for their intended 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 DM21 of the Submission City Plan Part 2, 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.
7. The hard surfaces 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 Brighton & Hove City Plan Part One.
8. Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. This shall include measures to enhance the ecology of the site. The

approved landscaping scheme shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- 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;
- c. details of all boundary treatments to include type, position, design dimensions and materials;

Any trees or plants specified within this landscaping statement which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD15 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton & Hove City Plan Part One.

9. All windows on the first floor, east facing elevation of the building facing No.2 Brackenbury Close (as visible in the elevation entitled 'side elevation' on plan numbered 2020/173, including those that may be inserted in the void area above the rear bay), shall be made of obscure glass. Details of the obscure glazing used, together with any opening mechanism incorporated into the design of the windows, shall be submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details. No part of the development hereby approved shall be first occupied until the windows are installed in accordance with the details approved under the terms of this condition. Once installed, the windows should be retained as approved for the lifetime of the development.

**Reason:** To safeguard the privacy of the occupiers of the adjoining property and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan and DM20 and DM21 of Submission City Plan Part 2

10. The development hereby permitted shall not be occupied until the new crossover and vehicular and pedestrian access to the site, as shown on the approved plans, has been constructed in accordance with detailed drawings that shall be submitted to and approved in writing by the Local Planning Authority. These detailed plans must demonstrate that there is an appropriate level of visibility towards pedestrians entering and leaving the footpath on the eastern boundary of the site, when vehicles enter and leave the site. Once built, the access must be retained as approved for the lifetime 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.

11. 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.

12. 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.

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 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'.
3. 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.
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. 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.
6. The water efficiency standard required under condition 12 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**

- 2.1. The application related to triangular-shaped plot of land west of 2 Brackenbury Close. Prior to the construction of the dwelling the plot was vacant. A footpath is located to the south and west (rear) of the site, and Henge Way bounds the site to the north. Beyond the footpath to the rear are open fields. The adjacent stretch of road beyond the junction with Brackenbury Close slopes downhill for a few metres, then ends abruptly.

## **3. RELEVANT HISTORY**

- 3.1. **BH2021/01453:** Application for variation of condition 4 of application BH2019/01409 (Erection of two storey dwellinghouse (C3), with hardstanding and creation of vehicle crossover) (allowed on appeal) to permit changes to previously approved external materials. Approved 13/7/21
- 3.2. **BH2021/00240:** Application for Approval of Details Reserved by Conditions 3 (cycle parking), 4 (materials), and 7 (tree protection) of application BH2019/01409 (approved on appeal). Approved 15/3/21
- 3.3. **BH2019/01409:** Erection of two storey dwellinghouse (C3), with hardstanding and creation of vehicle crossover. Refused 26/11/19, allowed on appeal 11/9/20
- 3.4. **BH2018/01407:** Erection of 1no two bedroom dwelling house (C3) incorporating vehicle crossover. Refused 22/06/18
- 3.5. **BH2017/03810:** Erection of 1no. two bedroom dwelling house (C3) incorporating vehicle crossover. Refused 07/02/18

## **4. APPLICATION DESCRIPTION**

- 4.1. As noted above, planning permission was granted at appeal, for the erection of a two-bedroom dwellinghouse incorporating vehicle crossover and associated alterations, along with planting, parking for a vehicle and cycle parking (planning application ref. BH2019/01409).
- 4.2. The dwelling approved is a chalet bungalow with living area on the ground floor and two bedrooms on the first floor, which comprise dormer windows. Works have commenced on site, with the building being substantially complete.

- 4.3. This application seeks to address the non-compliance of the development as built. Once the development was underway, concerns were raised by local residents that the development was not being constructed in accordance with the approved plans, with the height of the development being inconsistent with the approved drawings. The application being considered is based on revised drawings to show the development as it is being built on site, the differences between the as approved scheme and that now purposed are set out below.
- 4.4. As the development has already commenced and breaches the drawings condition on the approved application, procedurally a new permission must be sought, hence the description of development being that of the original permission.

## 5. REPRESENTATIONS

- 5.1. Comments were received from neighbours from the original consultation ending 25th October 2021.
- 5.2. **Eight (8)** letters have been received from neighbours before the 25th October 2021, objecting to the proposed development for the following reasons
- Loss of privacy/overlooking
  - Overdevelopment
  - Detrimental affect on property value
  - In appropriate height of development
  - Overbearing
  - Restriction of view
  - Overshadowing
  - Poor design
  - Noise
  - Inaccurate plans
  - No detail of hard or soft landscaping
  - Lack of compliance with condition to have obscure glazing on east facing elevation.
- 5.3. Following discussion with the applicant, it was agreed that a new description was required to accurately reflect the proposal, and that following this change it would be necessary to reconsult neighbours. The second period of consultation concluded on the 23rd March 2022. As a result of the second consultation, **seven (7)** letters have been received from neighbours, objecting to the plans for the following reasons:
- Overdevelopment
  - Not being built according to approved plans and details.
  - Lack of obscured glazing
  - Impact of building works on area
  - Works conducted outside of application area.
  - Removal of bee brick condition
  - Poor design
  - Inappropriate height

- Noise
- Overshadowing
- Restriction of view
- Too close to boundary

5.4. The objections received in response to the re-consultation of the application were received from the same local residents who objected to the application originally.

5.5. Issues regarding loss of a view and detrimental effects on property values are not material planning considerations.

## 6. CONSULTATIONS

6.1. **Environmental Health:**  
No Comment received

6.2. **Arboriculture:**  
No Comment received

6.3. **Sustainable Transport:**  
No comment (Verbal comments 20/10/21)  
Comments made for application BH2019/01409 relating to the impact of the overall development remain valid. No additional comments are required for the current application as the issues raised here do not have transport implications.

## 7. MATERIAL CONSIDERATIONS

7.1. 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

7.2. 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).

7.3. 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.

## 8. 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

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU10	Noise Nuisance
QD15	Landscape design
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

### Brighton & Hove City Plan Part Two (Proposed Submission October 2020):

Policies in this Plan 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 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. Some policies have gained further weight following the CPP2 examination hearings and publication of the Post Hearing Action points by the Inspector (INSP09) and Main Modifications for consultation March 17th (BHCC44 Schedule of Main Modifications).

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
DM35	Travel Plans and Transport Assessments
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance

### Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD11	Nature Conservation & Development
SPD14	Parking Standards

## **9. CONSIDERATIONS & ASSESSMENT**



- 9.1. The main considerations in the determination of this application relate to the principle of the development, particularly revised land levels on the plans submitted, and the alterations to the appearance to accommodate the differing topography from that shown in the approved plans.

Principle of Development:

- 9.2. Planning application BH2019/01409 for the erection of a two storey building on this site was refused under delegated powers on the 26th November 2019. The application was refused due to the impact that the development would have on the street scene, and the visual harm that it would cause, and was considered to be contrary to policy CP12 of the Brighton & Hove City Plan. The decision to refuse was subject to an appeal, with the application approved in a decision dated 11th September 2020. The Inspector's decision stated that the use of the site for a dwelling would be in character with the area, and the scale and design of the property would not be overly dominant in its setting, nor harmful to the character of the area. The Inspector also stated that the siting within the plot would result in no amenity impacts on outlook for neighbouring properties, and that other potential sources of amenity harm would not be a reason to refuse, subject to a condition for obscure glazing on first floor east facing windows. Another condition requiring a pre-commencement tree protection survey was attached by the Inspector.
- 9.3. In light of the above appeal decision, the principle of development on the formally vacant site is established however as the property is being built different to the approved scheme the impacts on the associated street scene and character of the area, and the impact on the amenity of neighbours must be re-considered, in addition to consideration of any material changes since the earlier decision was made.
- 9.4. In terms of changes to planning policy since the earlier scheme was allowed at appeal, Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 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. The local housing need figure for Brighton & Hove using the standard method is 2,311 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.
- 9.5. The council's most recent housing land supply position is published in the SHLAA Update 2021 which shows a five-year housing supply shortfall of 6,915 (equivalent to 2.1 years of housing supply).
- 9.6. 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).

- 9.7. It is important to note that since approval of the earlier application on appeal there has been a change of weighting with regards to the policies applied to the determination of the application. Brighton and Hove City Plan Part Two (CPP2) has now proceeded to post hearing stage. Following submission in May 2021, City Plan Part Two is currently under examination by a government appointed planning Inspector, Ms R Barrett, MRTPI IHBC. Public hearing sessions were held online in November 2021. Following the hearing sessions, the Inspector issued her post hearing action points in December 2021 and has asked the council to prepare and consult on main modifications which, subject to approval at committee will start in late March.
- 9.8. As a result, CPP2 Policy DM1 (housing quality, choice and mix) can now be given significant weight; Policy DM20 (amenity) is given more weight than the equivalent in the Brighton & Hove Local Plan, as can Policy DM21 (extensions and alterations). Policy DM33 (travel), DM35 (Travel Plans), and DM40 (pollution/nuisance) are all given significant weight.
- 9.9. Taking into account these revisions to the planning policy considerations, the principle of development of a new dwelling in this site remains acceptable and established.

Design and Appearance:

- 9.10. The Inspector's decision for the appeal against refusal under BH2019/01409 confirmed that the scale and materials proposed in the new dwelling were acceptable. Subsequent to the development being allowed by the appeal, the applicant sought approval for a variation to materials under application number BH2021/01453, which was approved by the Planning Committee on the 13th July 2021. The approved S73 application changed the roof tiles from plain concrete dark red tiles to smooth grey and stained timber framed windows/doors to anthracite grey uPVC windows and doors.
- 9.11. Specifically addressing the impact of the proposed development on the streetscene, the Inspector stated that:  
*"The new building would read as the continuation of the row of buildings facing Brackenbury Close, as it turns the corner in to Henge Way. It would appear as a small chalet bungalow; a common house type that would not detract from this suburban environment. The dormer windows would be proportionate to the size of the building and the remainder of its roof. The limited overall size of the building and its set back from the road mean that it would not be an unduly dominant structure in relation to any existing development"*.
- 9.12. Since the appeal was determined it has become apparent that the plans approved by the Inspector did not accurately reflect the land levels on site. No conditions were attached to verify height levels on the site prior to development commencing. Once the building works were underway, local residents raised concerns that the development was not proceeding according to the approved plans, which resulted in the site being visited by a Planning Enforcement Officer. At the time of the first visit, it was not possible to assess that any breach had taken place as the development hadn't commenced to a point that this could be established.

- 9.13. When the development had proceeded further, a subsequent enforcement visit was carried out and identified that the certain aspects of the development were not in compliance with the approved plans, as a result of the topography of the site being inconsistent with the plans. This resulted in parts of the development requiring additional depth to support the level ground floor in addition to the proposed decked area requiring a platform below with stepped access to the lower garden level.
- 9.14. In light of this, the present application has been submitted, to address the irregularities.
- 9.15. The elements of the current application that differ from the approved scheme will be considered below. There are no changes to the footprint of the building or the proximity and relationship to neighbouring properties.
- 9.16. The approved plans showed the development taking place on level ground. However, the actual site has a slope that drops from the east to the west. This results in certain elevations appearing different from the approved scheme, to take into account the greater land fall on the west.
- 9.17. In terms of land levels, the crucial consideration is the height relative to neighbouring buildings as this may result in greater impact than anticipated. To address this, the applicant has provided a streetscene drawing for the approved scheme which gave a reference for the height of the development relative to an adjacent building. The plans for the current application have restated that the overall height relative to the adjacent building would be the same. The additional height apparent on the western part of the building results from the development extending further down, below the ground level shown on the approved plans, resulting in the western elevation being 7.6m in height compared to the 6.7m of the approved scheme.
- 9.18. The greatest difference in apparent height relates to the western part of the development, which is adjacent to open ground and would not be directly or fully visible from any neighbouring dwellings. Consequently, the impact of the additional height on the western elevation of the development proposed is not considered to cause harm to the appearance of the property or impact on neighbouring buildings.
- 9.19. The drop in land levels has required amendments to the design of the property to allow for the transitions between the different levels across the site. Principal amongst these would be the raised terrace proposed for the rear elevation, which wraps around the angle back room of the property, with steps leading down from the central rearmost section to the garden. The width of this would be 1.1m from the rear of the main house. While this appears to slightly increase the massing of development at ground floor level in comparison with the approved scheme, it is in the context of the ground levels on site being lower than approved. It is considered that the proposed terrace would not be harmful to the appearance of the dwelling.

- 9.20. Other minor alterations are proposed compared to the approved scheme. A window on the first floor western elevation dormer is reduced in size, and an alternative design of canopy is proposed over the front door and slight changes to the fenestration in the rear elevation of the dwelling. Overall these alterations do not significantly impact on the appearance of the property.
- 9.21. It is considered that the proposed design and appearance of the property would be acceptable and that the amendments to the proposal in contrast to the approved scheme would not result in additional harm to the character of the area.
- Impact on Amenity:
- 9.22. Policy QD27 of the Brighton & Hove Local Plan and emerging Policy DM20 of City Plan Part 2 (which now carries more weight than QD27) state 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
- 9.23. In the appeal decision, the Inspector stated that:  
*"The building would be set a reasonable distance in from the boundary of the plot on each side. It would not result in any unacceptable overbearing effect, overshadowing, loss of light or overlooking. The separation distances to neighbouring properties are sufficient to avoid any significant loss of outlook.*
- 9.24. The proposed changes to the dwelling set out in this application include the addition of raised decking at the rear of the property. With a platform below and steps down to the garden land height. While raised decking frequently allows for increased overlooking, in this case the raised nature of the proposed decking results from the decrease in land levels. The approved plans included an area at the same height as this proposed decking, but over a larger area due to the incorrect representation of the land levels. The proposal set out in this application - while now appearing as 'raised' due to having a platform area below - would be no higher than the approved scheme, and would in fact be of a smaller area. The width of this would be 1.1m from the rear of the main house. While the length and width of the proposed terrace amounts to a significant area, in terms of the impact on overlooking, compared to the approved plans, the proposed arrangement would not result in additional harm. In addition, the rear elevation of the dwelling is designed with full width and full height glazing. Consequently, it is not considered that there would be any significant overlooking towards neighbouring properties as a result of the raised terrace.
- 9.25. Similarly, noise arising from the use of the raised decking would not be greater than might have arisen from the approved development.
- 9.26. The proposed maximum height of the dwelling relative to neighbouring properties remains unaltered from the approved scheme, as does the footprint of the dwelling within the site, so no new impacts on the amenity of neighbours as a result of overshadowing or due to an overbearing structure would arise.

- 9.27. In light of the considerations above, and taking into account the impacts of the development approved by the Inspector for the Appeal, it is considered that no adverse impacts on amenity sufficient to warrant refusal would arise from the proposed amended scheme.
- 9.28. Whilst application BH2019/01409 was refused the reason for refusal was not with regards to standard of accommodation. The earlier application report acknowledged that the proposed 2<sup>nd</sup> bedroom was of a slightly smaller size than normally required, but it was not considered that it was of such a small size to warrant refusal and the Inspector did not raise this as an issue in their decision. Whilst it is noted that the current application shows a slight reduction in size of this bedroom to accommodate the stairwell, the layout of the 2<sup>nd</sup> bedroom is still considered acceptable, and refusal is not warranted on the alteration to this bedroom.
- 9.29. The Inspector applied a condition on the appeal that required obscure glazing to all first floor windows on the eastern elevation, including those on the rear bay feature. Residents have raised concerns that the windows that have already been installed in these positions have not been completed according to the requirement of the condition. The condition attached by the Inspector remains valid and the development should not be occupied until such time as recommended condition 10 has been complied with. Should the current application be approved the Council's planning enforcement team can ensure that the development is completed in accordance with the approved plans.

Sustainable Transport:

- 9.30. No new specific transport considerations arise from the issues in this application, and conditions applied by the Inspector in the appeal decision for BH2019/01409 will be reapplied where relevant.

Sustainability:

- 9.31. Policy CP8 of the Brighton & Hove 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.

Biodiversity:

- 9.32. 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. A condition requiring a bee brick has been attached to improve ecology outcomes on the site in accordance with the Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.
- 9.33. The position regarding the ecological merits of the site set out in the officer report for BH2019/01409 are noted - that the area previously had dense vegetation, and that the loss of this, while acknowledging that there are no specific ecological features of note, would result in a loss of ecological value. Consequently, the Inspector attached a condition to the appeal decision that a

landscaping scheme should be agreed prior to occupation, to include measures to enhance the site's ecological value. This condition remains valid and will be retained.

Conclusion:

- 9.34. Overall, taking into account the views of the Planning Inspector with regards to application BH2019/01409, views which are material considerations in the assessment of this application, it is considered that the dwelling, as built, does not have an adverse impact upon the visual amenities of the site, Henge Way or the wider area and would not have a detrimental impact upon the amenities of neighbouring properties.

## 10. EQUALITIES

- 10.1. 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. Conditions will be applied to ensure the development complies with Requirement M4(2) of the optional requirements in Part M of the Building Regulations.

## 11. COMMUNITY INFRASTRUCTURE LEVY

- 11.1. As a S.73a retrospective application, the estimated CIL liability is **£6128.08**. In such cases the CIL regulations state that “*..Development for which planning permission is..granted under section 73A of TCPA (planning permission for development already carried out); is to be treated as commencing on the day planning permission for that development is granted..”.* BHCC (as CIL collecting authority) have determined that this is a “*deemed commencement for a chargeable\_development*”..... As such the CIL Regulations go on to state that “*..the amount of CIL payable in respect of that chargeable development is due in full\_on the deemed commencement date...*”.

## 12. CLIMATE CHANGE/BIODIVERSITY

- 12.1. The new dwelling within an area of existing residential properties would not require additional infrastructure to support it. The inclusion of a bee brick and a condition for landscaping to include features of ecological value to compensate for the loss of the dense vegetation that was formerly found on the site would result in a new gain for biodiversity in the city.



