

**SUBSTANTIAL OR CONTROVERSIAL DEVELOPMENT OR DEPARTURES
FROM POLICY**

<u>No:</u>	BH2010/00559	<u>Ward:</u>	QUEEN'S PARK
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Dolphin House, Manchester Street, Brighton		
<u>Proposal:</u>	Change of Use to language school (D1) and/or offices (B1)		
<u>Officer:</u>	Anthony Foster, tel: 294495	<u>Valid Date:</u>	11/03/2010
<u>Con Area:</u>	East Cliff Conservation Area	<u>Expiry Date:</u>	10 June 2010
<u>Agent:</u>	DMH Stallard, 100 Queens Road, Brighton		
<u>Applicant:</u>	Hargreaves Management Ltd and House of English, C/O DMH Stallard		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to minded to **GRANT** planning permission subject to the receipt of a basement layout plan, the following Conditions and Informatives:

Conditions

1. BH01.01 Full planning permission.
2. The proposed D1 use shall be for a language school only and for no other purpose including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to the Class in any statutory instrument revoking and re-enacting that Order with or without modification.
Reason: The Local Planning Authority would wish to retain control over the use of the premises in order to protect the amenities of the area in accordance with policy QD27 in the Brighton & Hove Local Plan.
3. Prior to the commencement of the language school (D1) use a site management plan is to be submitted to and approved in writing by the Local Planning Authority. The management plan should include details for dealing with the arrival and departure of students for classes, activities within common areas, smoking areas, parking areas and general measures to ensure that the amenity of the neighbouring occupiers is not compromised due hours of use. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
4. Prior to the commencement of the language school (D1) use unless otherwise agreed in writing, the windows on the rear (western) elevation shall be obscurely glazed and fixed shut and thereafter permanently retained until such time that the use reverts back to offices (B1).
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.

5. Within the first ten years of the implementation of this permission, the occupier/freeholder of the property is to notify the Local Planning Authority in writing when a change of use occurs to one which is explicitly allow by this permission.

Reason: To ensure that the Local Planning Authority is aware of the lawful use of the premises at any one time in order to protect the amenities of the area in accordance with policy QD27 in the Brighton & Hove Local Plan.

6. BH02.08 Satisfactory refuse and recycling storage.
7. Prior to first occupation of the development, or any subsequent change of use hereby permitted by this permission a Travel Plan (a document setting out a package of measures tailored to the needs of the site and aimed at promoting sustainable travel choices and reduce reliance on the car) for the development shall be submitted to the Local Planning Authority. The Travel Plan shall be approved in writing prior to first occupation of the development and shall be implemented as approved thereafter. The Travel Plan shall include a process of annual monitoring and reports to quantify if the specified targets are being met, and the council shall be able to require proportionate and reasonable additional measures for the promotion of sustainable modes if it is show that monitoring targets are not being met.

Reason: To seek to reduce traffic generation by encouraging alternative means of transport to private motor vehicles in accordance with policy TR4 of the Brighton & Hove Local Plan.

8. The D1 use hereby permitted shall not be open except between the hours of 08.00 and 20.00 on Mondays to Fridays and 10.00 and 16.00 on Saturdays and not at anytime on Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

9. BH06.02 Cycle parking details to be submitted

Informatives:

1. This decision is based on drawing nos. ECDH.01, 02, 03, 05, Planning Statement, and marketing information submitted on 1 March 2010 and drawing no. ECDH.04 submitted 25 May 2010.

2. This decision to grant Planning Permission has been taken:

- (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR4	Travel plans
TR7	Safe development
TR14	Cycle access and parking
SU2	Efficiency of development in the use of energy, water and materials

SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity
HO19	New community facilities
EM5	Release of redundant office floorspace and conversions to other uses

Supplementary Planning Document

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design

Supplementary Planning Guidance

SPGBH4: Parking Standards; and

ii) for the following reasons:

The proposed development would not result in a significant impact on the amenity of any adjacent properties and is considered appropriate in terms of its impact on highway safety. The loss of offices within the building is also deemed acceptable and the scheme would also result in the occupation of an empty building to the advantage of the local economy. The scheme is also in accordance with development plan policies.

2. The applicant is advised that any proposed alterations to the façade of the building, such as air conditioning units, and any new advertisements may require planning permission / advertisement consent. The applicant is advised to refer to the Council's guidance on advertisements in Supplementary Planning Document 7: Advertisements for further assistance.
3. Guidance on the structure and content of a suitable Travel Plan can be found on the following link: [http://www.brighton-hove.gov.uk/downloads/bhcc/Travel Guidance final with pic banner.pdf](http://www.brighton-hove.gov.uk/downloads/bhcc/Travel%20Guidance%20final%20with%20pic%20banner.pdf).

2 THE SITE

The application site relates to a five storey purpose built office block including a basement car park for 12 cars. The site is currently vacant and has been so since May 2008, throughout this period the property has been on the market for use as (B1) offices but there have been no occupiers.

The site is located on the west side of Manchester Street, to the south is an eight storey building with a night club located on the first two levels and residential units above. To the west of the site lies a terrace of 3 storey residential properties interspersed with commercial properties which front onto Steine Street

To the east of the site lies a car park, the latest music bar and a number of

3/4 storey residential properties. To the north lies the Star Inn.

The site is located within the East Cliff Conservation Area.

3 RELEVANT HISTORY

In 2004 permission was granted for an extension of the front entrance to create a disabled persons access, and gates to the residential units and underground car park (**BH2004/03317/FP**).

The original office block was approved for the “demolition and rebuilding of existing offices in Manchester Street (retaining existing period elevation) with demolition and redevelopment of old bus garage to provide 8 terraced houses with and 12 car parking spaces (**BN81/333**).

4 THE APPLICATION

Permission is sought for the change of use of the premises to a (D1) language school, or a (D1) language school and offices or (B1) offices.

Whilst the existing use of the building is (B1) offices, Part 3 Class E of the Town and Country Planning (General Permitted Development) Order 1995 allows the change of use of a building or land for a 10 year period from a use permitted by a planning permission, to another use which was also specifically authorised by that planning permission when granted.

The function of this Class allows Local Authorities to grant flexible planning permissions when alternative uses have been specified.

5 CONSULTATIONS

External:

Neighbours: The occupiers of **1, 5 Dolphin Mews**, object to the application on the following grounds:

- Increased noise and disturbance from both the proposed café and the increased numbers of visitors
- Overlooking from the proposed classrooms
- Smokers congregating outside of the premises
- Can Manchester Street cope with this increased level of footfall

A joint letter undersigned by the occupiers of **1, 2, 3, 4, 5, 6, 7, and 8 Dolphin Mews** has been received objecting to the application, including a list of suggested conditions and stating:

“In the absence of any consultation between the applicants and the residents of Dolphin Mews, and no visibility of a proposed operating plan for the site, we cannot agree with the application without certain conditions being attached. We currently are of the opinion that the impact on residential life to the residents of Dolphin Mews has been seriously underestimated in the application”

Internal:

Sustainable Transport: No objection. Subject to suitable cycle parking condition.

Planning Policy: Policy EM5/EM6 can be considered to be met. The policy states that preference will be given to alternative employment generating uses, of which this proposal would provide, either as mix of B1a and D1 or solely D1 use. The applicant should demonstrate compliance with policy HO19 as a new language school would provide a new community facility.

Economic Development Team: The team fully supports the application. It is felt that, having regard to the layout, size, car parking spaces and location of the building, in economic terms the premises has been actively marketed for some considerable time and the scheme results in flexibility in tenure and space.

Environmental Health: No objection. Any additional plant or machinery will be required to show that these will not cause a noise disturbance to neighbouring premises.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR4	Travel plans
TR7	Safe development
TR14	Cycle access and parking
SU2	Efficiency of development in the use of energy, water and materials
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD14	Extensions and alterations
QD27	Protection of amenity
HO19	New community facilities
EM5	Release of redundant office floorspace and conversions to other uses

Supplementary Planning Document

SPD03:	Construction and Demolition Waste
SPD08:	Sustainable Building Design

Supplementary Planning Guidance

SPGBH4:	Parking Standards
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7 CONSIDERATIONS

The main considerations in the determination of this application relate to the principle of the change of use, the potential loss of offices, the impact on

neighbouring residential amenity and the local area and transport issues. The scheme does not include any external alterations, therefore the impact on the appearance of the building or surrounding area is not a material consideration in the determination of this proposal.

Proposed Use

The application proposes a flexible permission to allow the premises to be used as either a language school (D1), language school (D1) and offices (B1) or offices (B1). The existing lawful use off the site is as offices, therefore, the retention of office (B1) floorspace is not an issue. Two of the proposed uses, either solely as a language school or a mix of the two, would result in a reduction in office space mix of language school the impact of this potential loss of office floorspace needs to be considered.

The proposed change of use to a language school or part language school would potentially result in the loss of a maximum of 1,397m² of office floor floorspace. Policy EM5 of the Brighton & Hove Local Plan states that planning permission will not be granted for the change of use of office premises or office sites to other purposes, unless they are genuinely redundant because the site is unsuitable for redevelopment or the premises are unsuitable and cannot be readily converted to provide different types of office accommodation or where a change of use is the only practicable way of preserving a building of architectural or historic interest.

The applicant has provided a detailed letter setting out the marketing strategy of the commercial agents including Fludes and Stiles Harold Williams since May 2008. The marketing report indicates the availability of alternative office accommodation in Brighton & Hove with approximately 45,000sqm of floor space either currently available or with a valid planning permission.

The Economic Development Team also supports the scheme, stating the building has been actively marketed by local commercial agents and has been the subject of a few potential occupiers where the size of the premises met their initial requirements. However, none of these enquiries resulted in a re-let of the space.

As the proposal will bring a vacant building back into operational use providing a central location for an operator which meets its market requirements. The operator has considered a number of alternative locations to accommodate its expansion and consolidation aspirations and this site meets their requirements as they have outgrown their current location.

The applicant states that the proposed use as a language school will provide employment for 40 full time and 3 part time staff this equates to 41.5 jobs. Based on the offPAT employment densities for general office use of 5.25 jobs per 100m² the existing office (B1) floorspace would be capable of this would equate to 73 jobs. Although this is a shortfall in potential jobs provided within the building it is recognised that due to the issues facing the building outlined

above, the reuse of the building and bringing it back into operational use is a fundamental consideration.

It is therefore considered that in economic development terms the premises have been actively marketed for some considerable time and flexibility in tenure and space has been introduced. The scheme is therefore in accordance with policy EM5.

Community Facilities

Policy HO19 states that planning permission will be granted for community facilities, which includes schools and D1 uses where it can be demonstrated that:

- a. the design and use of the facility will ensure its accessibility to all members of the community;
- b. there is no unacceptable impact on residential amenity or on the amenities of the surrounding area;
- c. the location is readily accessible by walking, cycling and public transport; and
- d. adequate car and cycle parking, including provision for people with disabilities, is provided.

The proposal would provide a language school which is being relocated from an existing site on Portland Place in Kemp Town. The existing building is fully accessible to all members of the community. The potential impact of the proposal upon the amenity of local residents and highways issues are considered further within the report.

With regard to the location of the proposed use, the site is located centrally within the city, and with good links to public transport. The existing site of the use is located further to the east within Kemp Town. The proposal improves accessibility to the facility as it is located much closer to the centre of town and closer to the main transport nodes. It is therefore considered that the proposal adheres to policy HO19.

Impact on amenity

Brighton & Hove Local Plan policy QD27 requires new development to respect the existing amenity of neighbouring properties. It is felt that the proposed D1 use will not result in a significant impact on the amenity of any adjacent premises.

Objections have been raised on amenity grounds including the potential for overlooking and an increase in noise and disturbance from the proposed D1 use. Initial concerns related to the proposed café use within at the site. The applicant has clarified that this is not a café as suggested on the original plans, it is merely a common area for the students to use.

It is appreciated that the nature of the use and classes will result in amplified sound within each of the classrooms and that direct overlooking may occur from these windows. The applicant has suggested that the application of an

obscurely glazed film to the rear windows would be acceptable to them. Therefore to minimise the potential disturbance and as the building is fully air conditioned it is considered that a condition requiring the windows to the rear of the property to be fixed shut and obscurely glazed should be applied whilst the project is in use as a Language School.

Other concerns have been raised over the congregation of students within the local vicinity whilst waiting for classes to start. In this regard it is considered appropriate for the Council to condition that a site management plan is submitted to and approved by the Local Planning Authority, this is to set out a series of measures to include management of the students within the local vicinity to avoid the potential for disruption to neighbouring occupiers.

The school is proposing opening hours of 8am – 8pm Monday to Friday and 10 am – 4pm Saturday. The existing office use does not have any existing restriction on its hours of operation, and could therefore operate 24 hours a day. The surrounding area is mixed in character with a number of commercial premises including public houses, a theatre and other commercial uses, it is considered that the proposed use would not be significantly more intrusive than the existing consented B1 use. In this case, it is considered prudent to condition the hours of the language school as above to avoid the potential for disruption to local residents.

Additionally, the scheme does not include any external alterations or additional plant or machinery which would result in an impact on the amenity of adjacent properties.

Transport issues

Brighton & Hove Local Plan policy TR1 requires new development to address the related travel demand, and policy TR7 requires that new development does not compromise highway safety. Many of the students undertake an intensive course in English tailored to their requirements, the foreign language student population in Brighton is transient with a constant turnover of students resulting in the majority of existing staff and students using either public transport or walking to the site. On average the courses last from 1 week to 9 months. The average length of course taken is 8 weeks, but 60% of students attend for under 4 weeks.

The existing site for the school has no allocated parking and on street parking on the immediate street is within a controlled parking zone with access to some metered parking. The applicant has submitted a breakdown of how the existing staff commute to the site, 10% drive, 20% cycle and 70% walk this ratio is expected to continue. It is anticipated that the students would either walk or use public transport given the improved transport links which benefit the application site.

The applicant has suggested that one of the existing car parking spaces could be given over to cycle parking. In this case given the anticipated demand for

car parking and cycle parking it is considered appropriate to secure cycle parking facilities via condition.

The Council's Sustainable Transport section has gone through the application in some detail. Although they are unable to give definite number of car use through the TRICs database, knowledge and experience of the use of Language Schools within Brighton would suggest that the proposed change of use to a language school would result in a reduction in car use when compared to the existing office use.

On balance it is felt that the traffic impacts of the proposal would not have a material adverse impact on the operation of the surrounding highway network, would not affect public safety in any way, and that the car parking demand can be accommodated in the available space that has been provided.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development would not result in a significant impact on the amenity of any adjacent properties and is considered appropriate in terms of its impact on highway safety. The loss of offices within the building is also deemed acceptable and the scheme would also result in the occupation of an empty building to the advantage of the local economy. The scheme is also in accordance with development plan policies.

9 EQUALITIES IMPLICATIONS

The proposal provides suitable access for people with disabilities.

BH2010/00559 Dolphin House, Manchester Street



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LIST OF MINOR APPLICATIONS

<u>No:</u>	BH2010/00944	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type:</u>	Advertisement		
<u>Address:</u>	Community Base, 113 Queens Road, Brighton		
<u>Proposal:</u>	Display of externally illuminated mesh type banner to North elevation.		
<u>Officer:</u>	Anthony Foster, 294495	tel:	<u>Valid Date:</u> 19/04/2010
<u>Con Area:</u>	Adjoining North Laine / West Hill	<u>Expiry Date:</u>	14 June 2010
<u>Agent:</u>	N/A		
<u>Applicant:</u>	Community Base, Mr Colin Chalmers, 113 Queens Road, Brighton		

Councillor Pete West has requested the application is determined by the Planning Committee.

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to that it is **MINDED TO REFUSE** Advertisement Consent, subject to any further material representations being received as a result of the expiry of the press notice on 28/05/10, and for the following reason and Informative:

1. The proposed advertisement, by virtue of its size, location and materials would result in a visually dominant feature within the street scene and would detract from the visual amenities of the area, adversely impacting on the character and appearance of both the North Laine Conservation Area and the West Hill Conservation Area. As such, the proposal is contrary to policies QD12, QD13, HE6 and HE9 of the Brighton & Hove Local Plan and Supplementary Planning Document 07 Advertisements.

Informative:

1. This decision is based on drawing nos. 01, 02, Site Location and Block Plans, & photographs, and Planning Statement submitted on 25 March 2010.

2 THE SITE

The site is located on the eastern side of Queens Road, at the junction with North Road. The site relates to the Community Base building, which is approximately 5 storeys in height. The site is located adjacent to the North Laine and West Hill Conservation Areas, and is within the Regional Shopping Centre.

3 RELEVANT HISTORY

BH2009/02970: Display of externally illuminated mesh type banner to North elevation. Refused 8 February 2010. An appeal against this decision is currently undetermined.

BH2009/01894: Display of externally illuminated mesh type banner to North elevation for a temporary period of three months per year. Refused 03 November 2009.

BH2008/02802: Advertisement consent for 1 x externally illuminated hoarding/banner sign. Refused 24 November 2008.

BH2006/01283: One internally illuminated light box poster display and one externally illuminated mesh banner. Refused 26 June 2006.

BH2004/02302/AD: Display of 1 illuminated mesh-type banner sign fixed to northern side of building. Approved 3 September 2004 by Planning Applications Sub-Committee contrary to officer recommendation.

BH2003/00175/AD: Display of 8 no. banners of varying heights across Queens Road elevation. Approved 24 February 2003.

BH2002/01548/AD: Display of externally illuminated 10m x 10m PVC mesh banner advertisement on north facing wall. Refused 2 August 2002.

BH2000/02357/AD: Installation of banners to front elevation from first to third floor levels. Refused 31 October 2000.

4 THE APPLICATION

Display on a permanent basis of 9m x 9m externally illuminated mesh type banner to North elevation until 30/04/15.

5 CONSULTATIONS

External:

Neighbours: None received.

Internal:

Sustainable Transport: No objections.

Councillor West: Supports the application (email attached).

6 PLANNING POLICIES

Brighton & Hove Local Plan:

QD12 Advertisements and signs

QD13 Advertisement hoardings

HE9 Advertisements and signs within conservation areas and on, or in the vicinity of a listed building

Supplementary Planning Documents

SPD07 Advertisements

7 CONSIDERATIONS

The main issues for consideration are the impact of the proposed signage on the appearance of the property and the surrounding area, and its impact on public safety.

The proposed advertisement measures 9m x 9m and would be constructed of PVC mesh. It would be externally illuminated. The application proposes a reduction in the size of the proposed banner by 0.4m in width and 0.4m in height in comparison to the previously refused application BH2009/01894, which is currently the subject of a planning appeal.

The proposed banner would cover the majority of the northern elevation and due to its size and positioning will be highly visible along the northern end of Queens Road and from the western end of North Road.

The applicant has stated that this application is for the renewal of the previous consent BH2004/02302/AD, which was approved by the Planning Applications Sub-Committee contrary to officer recommendation. The members of the Planning Applications Sub-Committee reasoned that the site was suitable for an advert of this type. This consent expired on 03/09/2009.

The recommended reason for refusal of the original application in 2004 remains appropriate, along with the subsequent reasons for refusal. Applications of this type occur fairly regularly and a consistent approach is adopted to each. Given these concerns and for consistency, officers recommend refusal for similar reasons to those recommended in 2004.

Although the size and scale of the proposed advertisement is similar to the advert which was previously approved, there have been material changes in local plan policy sufficient to warrant refusal of this advertisement consent. Policies have been strengthened through the adoption of the Local Plan in 2005 and the adoption of the SPD 07 on Advertisements in 2007. It is considered that the previous approval which has expired, does not outweigh the adopted planning policy position in this case.

Supplementary Planning Document 07 Advertisements states that “The council would not normally approve permanent advertisement hoardings on listed buildings or within their setting; within conservation areas or their immediate setting; within the seafront area; or within the countryside”.

The sign would be illuminated by 3 floodlights, whilst it is appreciated that the luminance levels of the proposed lights has been reduced to adhere to guidance set out in SPD07. Should the location of the proposal have been acceptable the level of lighting would have been considered appropriate.

It is considered that the size, location and dominance of the proposed advertisement, will detract from the visual amenity of the area. Its close proximity to the North Laine and West Hill Conservation Areas will result in the proposal adversely impacting on the setting of both of these conservation areas.

In addition, the advert would be constructed of materials (PVC mesh) that are not sympathetic to the character and appearance of the adjacent

Conservation Areas. The materials do not bear any relationship to the building on which the advertisement is to be located.

Queens Road is also a main thoroughfare for visitors arriving to the city by train. The site has high prominence when walking from the train station to the sea front and the shopping centre and it is considered that such a large advert would not be in keeping with the visual appearance that the city is seeking to portray to visitors.

For the reasons above, it is considered that Advertisement Consent should be refused.

8 EQUALITIES IMPLICATIONS

None identified.

BH2010/00944 Community Base, 113 Queens Road



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**Brighton & Hove
City Council**

PLANS LIST – 09 JUNE 2010

COUNCILLOR REPRESENTATION

From: Pete West [mailto:Pete.West@brighton-hove.gov.uk]
Sent: 30 April 2010 19:04
To: Jeanette Walsh
Subject: Community Base New Planning Application BH2010/00944

Dear Jeanette,
Please accept my request that this application goes to committee for decision, in the event that it is recommended for refusal by the case officer. I will send further comments in due course as necessary.
Many thanks
Pete

Cllr Pete West
Green City Councillor for St Peter's & North Laine Ward
Green spokesperson for Licensing and the South Downs National Park

<u>No:</u>	BH2009/01355	<u>Ward:</u>	EAST BRIGHTON
<u>App Type</u>	Full Planning		
<u>Address:</u>	Wolseley Build Centre, 19 Bristol Gardens, Brighton		
<u>Proposal:</u>	Demolition of existing building and construction of 9 new residential dwelling houses. Provision of on site parking, cycle store and refuse facilities.		
<u>Officer:</u>	Aidan Thatcher, tel: 292265	<u>Valid Date:</u>	08/06/2009
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	03 August 2009
<u>Agent:</u>	Michael Cook Associates, Brooklyn Chambers, 11 Goring Road, Worthing		
<u>Applicant:</u>	Oakfawn Properties, The Old Mill, The Warren, Crowborough		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 9 of this report and resolves it is **MINDED TO GRANT** planning permission subject to the applicant entering into a Section 106 Agreement and to the following Conditions and Informatives:

S106

- To secure a contribution of £13,500 towards improving accessibility to bus stops, pedestrian facilities and cycling infrastructure in the vicinity of the site.

Conditions:

1. BH01.01 Full Planning.
2. BH02.06 No cables, aerials, flues and meter boxes.
3. BH02.07 Refuse and recycling storage.
4. No development shall take place until samples of the materials (including colour of render, paintwork and colourwash, paving) to be used in the construction of the external surfaces of the development hereby permitted 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 QD1 of the Brighton & Hove Local Plan.
5. BH04.01A Lifetime Homes.
6. BH05.01B Code for Sustainable Homes – Pre-Commencement (New Build residential) – [Code Level 3].
7. BH05.02B Code for Sustainable Homes – Pre-Occupation (New Build residential) – [Code Level 3].
8. The development shall be carried out in strict accordance with the Site Waste Management Plan prepared by Michael Cook Associates received on 08.06.09.

Reason: To ensure that the development would include the re-use of limited resources, to ensure that the amount of waste for landfill is reduced and to comply with policy SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction and Demolition Waste.

9. BH05.10 Hardsurfaces.
10. BH06.03 Cycle parking facilities to be implemented.
11. BH06.01 Retention of parking area.
12. BH07.11 External lighting.
13. BH08.01 Contaminated land.
14. BH11.01 Landscaping/planting scheme.
15. BH11.02 Landscaping/planting (implementation/maintenance).
16. No development shall commence until fences for the protection of trees to be retained shown on the drawings hereby approved have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.
Reason: To protect the trees which are to be retained adjoining the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.
17. The existing crossovers and dropped kerb lines shall be reinstated in strict accordance with a scheme to be submitted to and agreed in writing with the Local Planning Authority.
Reason: In order to improve the quality of the public realm, to create a safe pedestrian environment and to comply with policies QD1 and TR7 of the Brighton & Hove Local Plan.
18. No development shall take place until confirmation that the contractors working on the site have signed up to the considerate constructors scheme have been submitted to and approved in writing by the Local Planning Authority.
Reason: In order to protect the amenities of the neighbouring residents and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
19. BH02.03 No permitted development (extensions) (amenity and character).
20. BH02.09 Flat roofed extensions.
21. No development shall take place until detailed drawings, including levels, sections and constructional details of the access road to include 'rumble strips', junction treatment, signage, surface water drainage, outfall disposal and street lighting to be provided have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the details approved prior to the first occupation of the development and retained as such thereafter.
Reason: In the interests of highway safety and for the benefit of the public and to comply with policy TR7 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 5226/LOC, 5226/01, 5226/02, 5226/03, 08021-01-T-E1, Design and Access Statement, Biodiversity Checklist, Transport Statement, Phase 1 Environmental Assessment, Marketing information and Site Waste Management Plan submitted on 08.06.09, Sustainability Checklist submitted on 02.07.09, customer survey submitted on 27.01.10 and drawing no. 5226/04 submitted on 29.04.10.

2. This decision to grant Planning Permission has been taken:

(i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR3	Development in areas of low public transport accessibility
TR4	Travel Plans
TR7	Safe Development
TR8	Pedestrian routes
TR11	Safe routes to school and school safety zones
TR12	Helping the independent movement of children
TR13	Pedestrian network
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU3	Water resources and their quality
SU4	Surface water run-off and flood risk
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU11	Polluted land and buildings
SU12	Hazardous substances
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
SU15	Infrastructure
QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD3	Design - efficient and effective use of sites
QD4	Design - strategic impact
QD5	Design - street frontages
QD7	Crime prevention through environmental design
QD15	Landscape design
QD16	Trees and hedgerows
QD26	Floodlighting
QD27	Protection of amenity

QD28	Planning Obligations
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO6	Provision of outdoor recreation space in housing schemes
HO13	Accessible housing and lifetime homes
<u>Supplementary Planning Guidance Notes</u>	
SPGBH 4: Parking Standards	

Supplementary Planning Documents

SPD03	Construction and Demolition waste
SPD08	Sustainable Building Design

Planning Advice Notes

PAN03	Accessible Housing and Lifetime Homes
PAN05	Design and Guidance for Storage and Collection of Recyclable Materials and Waste; and

(ii) for the following reasons:-

The proposed development would integrate effectively with the scale, character and appearance of the street scene and wider area, would cause no undue loss of light or privacy to adjacent occupiers and would be of appropriate materials to ensure that it would integrate effectively with the wider area. The units would achieve acceptable levels of living conditions for the future occupiers. Subject to conditions, the proposals would have an acceptable impact on sustainability objectives and cause no detrimental impact on highway safety. Therefore, the proposal is considered to be in accordance with development plan policies.

3. The applicant is advised that details of Lifetime Homes standards can be found in Planning Advice Note PAN 03 Accessible Housing & Lifetime Homes, which can be accessed on the Brighton & Hove City Council website (www.brightonhove.gov.uk).
4. The applicant is advised that details of the Code for Sustainable Homes can be found on the Planning Portal (www.planningportal.gov.uk), on the Department for Communities and Local Government website (www.communities.gov.uk) and in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website (www.brightonhove.gov.uk).
5. 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' which can be accessed on the DCLG website (www.communities.gov.uk).
6. The applicant is advised to contact Southern Water to agree the

measures to be taken to protect/divert the public water supply main. Southern Water can be contacted via Atkins Limited, Southern House, Capstone Road, Chatham, Kent, ME5 7QA, 01634 824103, www.atkinsglobal.com.

7. Notice is given that Section 35 of the East Sussex Act 1981 may apply to this development. This gives Local Authorities the power to reject applications deposited under the Building Regulations, unless after consultation with the fire authority they are satisfied that the plans show adequate means of access for the fire service.

3 THE SITE

The application site is approximately rectangular in size, which is in existing use as a Builders Merchant Yard, occupied by the Wolesely Build Centre. The site is occupied by a cluster of buildings, being both brick built and metal clad, single storey and are situated on the southeast corner of the site, directly abutting the east and south boundaries.

The remainder of the site is utilised for open storage and vehicular parking.

The site has vehicular access from the south, from Bristol Gardens via a long narrow (approximately 4.4m wide) which runs past the western boundary of Sussex Row and the rear of 49-51 Prince Regent's Close.

The site has a significant frontage to its western boundary which fronts onto Prince Regent's Close, this is currently walled to enclose the rear storage yard.

The site is surrounded by residential accommodation to the east, comprising two and three storey residential dwellings, Bristol Gardens is to the south, with predominately residential uses beyond, the southern half of the western boundary has residential properties (with a doctor's surgery to the ground floor) and a garage compound, then due to the curve in Prince Regent's Close, this is then directly alongside the boundary, with two storey modern (1960's) neo-georgian style properties beyond. The same type of properties are situated to the north also, with the flank elevation of no. 48 Prince Regents Close facing the site.

The site is predominantly enclosed with a brick and flint wall, except for the northernmost part of the western boundary, where there is a modern rendered wall.

It is noted that the floor level of the site is significantly higher than the rear gardens of the properties in Princes Terrace by approximately 0.9m.

4 RELEVANT HISTORY

BH2005/01816/FP: Overcladding of existing corrugated asbestos cement roof sheeting with colour coated plastic profiled metal sheeting – approved

05.08.05.

BH2004/02667/AD: Six non-illuminated aluminium panel signs fixed to building – approved 23.09.04.

BN90/1470/F: Erection of 1.2m high post and wire fence above one existing wall on part of the west boundary of one site (part retrospective) – approved 23.10.90.

BN89/2376/F (duplicate of **BN89/2375/F**): Demolition of existing single storey building used for storage/sales/distribution of building materials and erection of replacement single/two storey building and provision of 8 customer parking spaces – refused 20.02.90. Appeal dismissed 25.02.91.

88/238F: Demolition of existing single storey building used for storage/sales/distribution of building materials and erection of replacement single/two storey building: other works include relocation of aggregate bins – **Refused** 28.06.88. Appeal dismissed 24.04.89.

67/1725: Covering of part of open yard at present used as materials vehicle park – refused 26.09.67.

67/1012: Outline application; Covering part of open yard at present used as materials and vehicle park – refused 13.06.67.

67/1011: Outline application; First floor extension to existing offices by approximately 83sqft – refused 13.06.67.

65/1111: Outline application; residential development – refused 16.03.65.

17.60/1128 – Outline application; erection of single storey building for garaging vehicles – refused 30.08.60.

16.59/1022: Alterations to existing access – approved 30.06.59.

16.59/169: Installation of 3000 gallon underground petrol tanks and 2000 gallon diesel tanks above ground and a hardstanding for vehicles – approved 03.02.59.

55/487: Extending existing offices – approved 05.05.55.

5 THE APPLICATION

This application seeks consent for the demolition of the existing structures on site and the erection of 9 no. two storey dwellings, together with vehicular parking and landscaping.

There is a proposed mix of dwellings, comprising 3no. 4 bedroom, 4 no. 3 bedroom and 2 no. 2 bedroom dwellings.

A terrace of three 4 bedroom houses is proposed, located to the northern part of the site, directly fronting onto Prince Regent's Close, each would include a dedicated off street parking space through a car port forming an integral part of the footprint of the property.

The ground floor footprint of these units would be L-shaped approximately 10m at its widest point (4.1 at its narrowest), 13.1m at its deepest point (5.45m at its shallowest). The first floor footprint is significantly shallower, and measures 10m wide x 7.1m deep. The height of the terrace would be 5.0m to the lower end of the mono-pitch roof and 5.3m to the higher end.

A terrace of 4 no. three bedroom houses would be located in the central part of the site. These would also be sited fronting onto Prince Regent's Close, but some would be hidden behind the existing brick and flint wall.

This terrace of units is irregularly shaped, and provides a differing design of properties. The overall dimensions of the footprint of the terrace is 29.3m wide x a maximum depth of 9.6m and a minimum of 5.7m.

Two of the units, the furthest north and one of the middle units would have the same ground and first floor footprint of 5.7m wide x 9.6m deep x 5.0m to the lower height of the mono-pitch roof and 5.3m to the higher end.

The unit between these has a ground and first floor footprint of 9.1m wide x 5.7m deep x 4.7m to the lower height of the mono-pitch roof and 4.9m to the higher end.

The unit to the southern end of this terrace has a ground floor footprint of 7.2m deep x 9.2m wide with a first floor footprint of 5.7m deep x 9.2m wide. The height is to be 4.7m to the lower height of the mono-pitched roof and 4.9m to the higher end.

The remainder two units form a semi detached pair to two bedroom units, which are orientated north/south, which is different to the remainder of the development. These are each to measure 4.9m wide x 9.6m deep x 5.0m to the lower height of the mono-pitched roof and 5.3m to the higher end.

The remainder of the plot is set out to provide for 6 no. additional parking spaces within a communal car park accessed from the existing vehicular access from Bristol Gardens, and includes a communal refuse and recycling store and cycle storage for those units which do not have private storage.

A number of landscaping areas are proposed as part of the development, both within the car park area and along the communal frontage to Prince Regent's Close.

6 CONSULTATIONS

External

Neighbours: 17 letters of objection have been received from the occupiers of nos. 3, 5, 7, 11 (x2), 12, 13 (x2), 15, 17 and 19 Princes Terrace, nos. 15, 16, 18, 19 and 50 Prince Regent's Close and Flat 38, 48 Wells Street London (freeholder of 16 Princes Terrace) on the following grounds:

- Loss of light;
- Loss of view;
- Loss of privacy;
- To high a density for the site;
- Increased parking stress;
- Design uncharacteristic with the surrounding area;
- Plots 1-3 should be set back to provide front garden space;

- The flint wall should not be removed;
- Proposed materials are out of character with the existing development;
- Inadequate parking provision provided;
- Potential for increased noise pollution;
- Flat roofs must not be used as terraces in the future;
- Overdevelopment of the site;
- Lack of detail on how the boundary wall with Prices Terrace will be treated and who owns it;
- Insufficient detail on landscaping;
- Would like confirmation that the dwellings would not be used as student housing or HOM's;
- The number of existing vehicle movements per day is significantly lower than as stated within the Transport Statement;
- Inaccurate measurements shown on drawings;
- Proposed alley between plots 3 and 4 could give rise to security concerns;
- Overshadowing;
- Flat roofs are out of keeping with the surrounding development; and
- Inadequate disabled access.

A **letter** of objection has also been received from **Cllr Gill Mitchell** (see attached).

Internal

Planning Policy: It is understood that a recent planning investigation of the way that this site operates has shown that the use is Sui Generis and it has changed since 2001 when it was used for B8 storage; to a mixture of storage and retail sales for the building trade. There is therefore no policy objection to the loss of a sui generis site to residential development.

Sustainable Transport: Would not wish to restrict grant of consent of this Planning Application, subject to the inclusion of conditions relating to crossovers, cycle parking, parking areas and detailed drawings and a S106 contribution of £13,500 towards improving accessibility to bus stops, pedestrian facilities and cycling infrastructure in the vicinity of the site.

Economic Development: The economic development team does not support the application on the grounds of loss of employment space.

The supporting information states that part of the existing site had a unit comprising of 3,800ft² for sales and offices associated with the previous use for a Builders Yard. The proposal does not take into the loss of this space and is therefore not supported.

There have been no discussions with the applicant with regards to this loss as part of the pre application discussions and this issue would have been raised should discussions have taken place.

A mixed use scheme would have been preferable (in economic development terms) incorporating (as a bare minimum) some 3,800ft² of replacement employment space in any proposal to meet the business needs of the city.

Environmental Health: No objection subject to the imposition of a condition and informative relating to potential land contamination.

Sustainability Officer: The documents submitted with this application give very little information to assess sustainability standards. There is a lack of considered attention to sustainability which is disappointing. A development of this size could be going much further in delivering sustainable design. Instead the development appears to be offering limited information to meet minimal standards rather than prioritising sustainability within the design process.

Council Arboriculturist: There are no trees on the site itself, however, immediately outside the site there are 4 trees that are in Council ownership that may be affected by the development.

The only one of any arboricultural value is a sycamore, the northernmost tree of the 4 trees on Prince Regents Close. The Arboricultural Section would like this retained post development. It sits close to the flint wall that borders the site and therefore it is presumed its retention should not impede the development greatly. This tree should be protected during development to BS 5837 as far as is practicable – Arboricultural Method Statement to be provided.

There are also new footpaths in the vicinity of this tree, arboricultural advice should be sought on their construction and an Arboricultural Method Statement provided before any work commences.

There are a further 3 trees on street that are of poor form or in a state of decline, one Elder and 2 Hawthorns. The Arboricultural Section would not object to their loss as long as a suitable landscaping scheme is produced showing their replacement.

The Arboricultural Section would also like to see a firm landscaping scheme regarding planting to the rear (east) of the properties.

7 **PLANNING POLICIES**

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR3	Development in areas of low public transport accessibility
TR4	Travel Plans
TR7	Safe Development
TR8	Pedestrian routes
TR11	Safe routes to school and school safety zones

TR12	Helping the independent movement of children
TR13	Pedestrian network
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU3	Water resources and their quality
SU4	Surface water run-off and flood risk
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU11	Polluted land and buildings
SU12	Hazardous substances
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
SU15	Infrastructure
QD1	Design - quality of development and design statements
QD2	Design - key principles for neighbourhoods
QD3	Design - efficient and effective use of sites
QD4	Design - strategic impact
QD5	Design - street frontages
QD7	Crime prevention through environmental design
QD15	Landscape design
QD16	Trees and hedgerows
QD26	Floodlighting
QD27	Protection of amenity
QD28	Planning Obligations
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO6	Provision of outdoor recreation space in housing schemes
HO13	Accessible housing and lifetime homes

Supplementary Planning Guidance Notes

SPGBH 4: Parking Standards

Supplementary Planning Documents

SPD03 Construction and Demolition waste

SPD08 Sustainable Building Design

Planning Advice Notes

PAN03 Accessible Housing and Lifetime Homes

PAN05 Design and Guidance for Storage and Collection of Recyclable Materials and Waste

8 CONSIDERATIONS

The main considerations in the determination of this application are the

principle of the development, impact on street scene and wider area, amenity issues, transport issues, contaminated land and sustainability issues including waste management.

Principle of Development

The site has a long and extensive planning history as indicated above. The site has clearly been in use as a builders yard for a number of years, the description of the 1988 planning application confirms this. Therefore, it can be seen that the site has been in this use for a minimum of 22 years.

The existing use of a builders yard is heavily dependent on the precise operation of the site, and can fall into a number of different use classes, as set out below:

1. Builders Yard for storage and sales to Trade – Class B8;
2. Builders Yard for storage and sales to Visiting Members of the Public – Class A1; or
3. If no identifiable primary use – Sui Generis.

The planning history indicates that there was no actual consent for the use of the site as a builders yard, however this appears to have evolved from the sites use as a storage yard, for petrol/diesel and vehicles into a builders yard and through to its current use as a Wolseley Build Centre. However, as the site has been used for in excess of 10 years as a builders yard, this appears to be its lawful use, despite not having an actual consent for the use (or a Lawful Development Certificate).

It is therefore more difficult to ascertain precisely how the site has operated since it has been used as a builders yard, and thus brings the use class of the site into question.

During the course of the application, additional information relating to precisely how the site has been operating was requested on numerous occasions from the developers and their agents. Unfortunately, this information was not received due to the existing occupier (The Wolseley Build Centre) not wishing to provide their company information. The difficulty arose as the occupier only had a leasehold interest in the land and thus did not consider it to be in their interests to assist the developers in arguing the case.

This resulted in no historic information providing confirmation of how the site has operated, meaning that confirming which use class the site fits into has not been possible with any certainty.

Therefore, in order to provide greater clarity on the matter, it was agreed with the applicants that they would undertake a survey of the existing customer base on 6 days over a two week period.

The results of this survey confirmed that 86% of the customers surveyed were purchasing the goods for trade use, and 14% for personal use. 99% were

taking the goods purchased away with them, and 1% having them delivered and 52% held a trade account whilst 48% did not.

As can be seen from the results of the survey, there was a split of the customer base between trade customers and visiting members of the public, with trade sales being significantly more dominant.

This provides a useful insight to the actual operational habits of the site at the current time, in order to help establish the existing use class which is most appropriate for the site.

In order to provide further clarity on this matter, case law was also investigated. In relation to cases involving builders yards, there are a number which find that these do not fit comfortably within any one use class and thus are described as sui generis. The most relevant case is Hammersmith & Fulham LB 01/08/89, in which the inspector concluded that “A builder’s merchants, involving as it does the primary purpose of selling materials to the trade, does not fall within Class B8, nor in my view does it come within Use Class A1: rather it is a use which is sui generis”.

It is also important to note that during the two site visits which have been undertaken by the case officer, the site appeared to be in use providing sales to the public and trade (based upon the vehicles customers were arriving and departing in and the clothing worn by the individuals) together with extensive storage of builders/DIY materials.

Therefore, taking a view on the use class based upon the whole range of evidence available, and case law, it is firmly considered that the site is operating within a sui generis use, as there is no identifiable primary use. The use is considered to be mixed between sales to both trade and the public and storage of materials.

On this basis, and as there are no Development Plan policies that resist the loss of this use, it is considered that the principle of the use of the site for residential would be acceptable.

PPS3 on Housing states that urban land can often be significantly underused and advocates the better use of previously-developed land for housing. It is considered that the application site where the new building is proposed constitutes previously-developed land and in principle the construction of a residential scheme could make an efficient use of this site in accordance with PPS3, subject to compliance with other planning considerations.

Impact on street scene and wider area

Policy QD1 relates to design and the quality of new development. It confirms that all proposals for new buildings must demonstrate a high standard of design and make a positive contribution to the visual quality of the environment.

Policy QD2 relates to design and key principles for neighbourhoods. It confirms that new development should be designed to emphasise and enhance the positive qualities of the local neighbourhood, by taking into account the local characteristics, including:

- a. Height, scale, bulk and design of existing buildings;
- b. Topography and impact on skyline;
- c. Natural and developed background or framework against which the development will be set;
- d. Natural and built landmarks;
- e. Layout of street and spaces;
- f. Linkages with surrounding areas;
- g. Patterns of movement within the neighbourhood; and
- h. Natural landscaping.

Policy QD3 relates to efficient and effective use of sites and confirms that new development will be required to make efficient and effective use of a site, including sites comprising derelict or vacant land and buildings.

The visual appearance of the site would be fundamentally altered to accommodate the proposed development.

The site has vehicular access from Bristol Gardens, via a narrow (approximately 4.4m wide) road into the site. This is relatively long (approximately 30m) before the site opens out to the full width of approximately 18m.

This means that the proposals are likely to have little significant impact on the Bristol Gardens street scene, and the access road would remain. The redevelopment would see this road resurfaced and improved in its visual appearance and as such is likely to provide an improved environment when viewed from Bristol Gardens.

The more contentious frontage is within Prince Regent's Close, and it is noted that many of the objection letters comment on the design being out of keeping with the existing neo-georgian 1960's properties which form the majority of the existing street scene.

The main elevation to Prince Regent's Close currently comprises a high rendered wall towards the rear part of the site, and a flint wall to the south, and where it adjoins the existing group of domestic garages (which are outside the application site boundary).

The proposed development seeks to remove the rendered part of the boundary wall where it fronts Prince Regent's Close, but to retain the flint wall (with the exception of creating a new pedestrian opening).

Two terraces of two storey dwellings would front onto the close, with the second (towards the middle/southern part of the site) being partially hidden

behind the existing flint wall.

The dwellings themselves would have a modern appearance, with rendered walls (with small elements of timber cladding within the recesses) and Sarnafil monopitch roofs. The character of the immediately surrounding area is mixed in character and includes Georgian, Victorian, 1960's and modern architecture. Prince Regent's Close is a 1960's development, and comprises two storey terraced dwellings with Georgian style windows and parapet walls with hidden flat roofs.

Due to the variety of architectural styles within close proximity of the site, it is considered that a modern style is acceptable in this location without causing any harm to the wider area, and is considered to provide additional interest within the street scene. The actual design of the development is considered to be high quality, respecting the scale, bulk and massing of the surrounding buildings.

Comments have been received from residents requesting the development to be an extension of the design of the existing properties however this is considered to be an inappropriate way in which to design the scheme, as it would not provide the legibility of the differing development periods to be understood.

Due to the mixed character of the surrounding properties, this means that there are mixed plot sizes within the vicinity of the site. A general rule of thumb is that the older the property the larger the plot size, with the smallest plot sizes being the recently constructed 3 storey dwellings fronting Bristol Gardens, known as Sussex Row. With this in mind, the plot sizes of the proposed dwellings are not considered to be out of character with the surrounding area. However, this matter is discussed below within the amenity section also.

Amenity Issues

For Neighbours

Policy QD27 relates to protection of amenity and confirms that permission will not be granted where development 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 main issues here are likely to be loss of light, overshadowing, loss of privacy and additional noise and disturbance.

In relation to the general use of the site, it is considered that a residential scheme is likely to reduce the impact of noise and disturbance on the surrounding occupiers by virtue of the removal of the existing commercial use and its replacement with a (generally) quieter residential scheme. Therefore the scheme is considered to improve the impact of noise and disturbance on surrounding occupiers.

In relation to loss of privacy the properties that are most likely to be impacted on are the Victorian two storey dwellings to the east, which front Princes Terrace.

The removal of the existing structure on site, and its replacement with two storey dwellings with rear (east) facing habitable rooms is considered to represent an increase in overlooking. Section details have been provided of the proposed development, with the existing properties in Princes Terrace shown also. This indicates that the distances involved (first floor to first floor) are a minimum of 13.5m, and a maximum of 20m. Whilst this minimum distance is just within the limits of acceptability in terms of overlooking distances, this only relates to a single dwelling and in general the distances are in excess of 17m, which is considered appropriate within a city centre location such as this. It is also noted that the relationship between the existing properties on the eastern side of Prince Regent's Close and Princes Terrace is 16m. Therefore, the relationship is broadly the same as that of the existing street.

Therefore, on balance, it is considered that there would be no undue overlooking issues arising from the scheme, and none that would warrant a refusal of the development on these grounds.

The scheme also has the potential to result in loss of light, particularly to the lower ground floor levels of the three storey properties fronting Princes Terrace. This is most relevant towards the northern part of the site where there is currently no built form (but there are piles of building materials, sometimes higher than the boundary wall).

At this point the scheme has the potential to cause a loss of light to the properties to the east, however it is unusual to have this type of relationship between residential properties and open sites within a city centre location. The relationship between the existing development to the north of the application site is more usual, and thus whilst some light will be lost, the degree to which this will occur is to be assessed having regard to the city centre location and the relationship between surrounding buildings.

To the southern portion of the site, the existing single storey buildings, which have a maximum ridge height of 4.0m, are to be removed. These are visible from the basement levels of the Princes Terrace properties. The proposed site would include a higher development height (a maximum of 5.3m furthest from the boundary) however this would be set well back (in excess of 6m) from the boundary, and thus will appear as less dominant than the existing buildings which are constructed against the eastern boundary.

On balance, it is considered that the existing dwellings to the east will still receive an acceptable level of natural light which would not unduly harm the amenities of the occupiers of these dwellings.

It is also noted that the site is located due west of these properties, and thus the amount of sunlight these would achieve as existing would be limited to late afternoon/evening during the summer months only.

Therefore, on balance, although there will be some loss of light, particularly to those properties adjacent to the northern part of the site, this would not be to a level which would warrant a refusal of the scheme on these grounds.

For Future Residents

Policy HO13 requires residential units to be lifetime homes compliant.

The layout of the proposed units ensures that there would be adequate space for the units to meet lifetime homes compliance. The plans confirm compliance with these standards.

The scheme provides for rooms sizes which are adequate for their function with adequate light and ventilation, save for an internal bathroom, which is not considered to warrant a refusal of the scheme.

Policy HO5 requires the provision of private useable amenity space in new residential development.

The size of the garden areas with the properties are considered to be on the limits of acceptability. Whilst there are no adopted minimum size standards for amenity space, it is considered that each unit should have a space which is suitable for the needs of the occupiers of the unit.

It is acknowledged that the size of amenity space in the existing surrounding properties vary somewhat, many incorporate more usable sized areas. The constraints of the site are noted and thus it is considered that on balance, and having regard to the size of the plot sizes within Prince Regents Terrace (which are similar sized units) immediately to the north of the site, that the plot sizes would be acceptable and sufficient for the needs of the future occupiers.

Transport

Policy TR1 confirms that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking and cycling.

Policy TR2 relates to public transport accessibility and parking and confirms that permission will only be granted where the development proposal has been assessed to determine the level of accessibility to public transport.

Policy TR14 confirms that all proposals for new development and change of use should provide facilities for cyclists in accordance with the parking guidance.

The site is located just outside a controlled parking zone (CPZ) and as such

experiences very high levels of on-street parking stress. It is noted that the scheme incorporates 1 vehicular parking space per unit.

The scheme also provides for secure cycle parking which is considered to conform to the requirements of policy TR14.

The comments from the Sustainable Transport Team are noted, in that the scheme would be acceptable subject to conditions relating to crossover details, cycle and vehicular parking being provided prior to occupation and a sustainable transport contribution of £13,500.

It is noted that the access to the site is relatively constrained, both by the narrow access as existing and the internal parking layout. The comments from the Sustainable Transport team are noted, in that they do not consider the internal arrangement would warrant a refusal of the scheme as this lies outside of their control. However, a condition is recommended to ensure that additional safety measures are incorporated into the scheme, such as shared surfaces, speed control measures and lighting. This is considered to ensure that the safety of the access is maintained of both vehicular and pedestrian traffic and thus ensures that the proposal would be acceptable in these terms.

Contaminated Land

PPS23 states that Local Planning Authorities should pay particular attention to development proposals for sites where there is a reason to suspect contamination, such as the existence of former industrial uses, or other indications of potential contamination, and to those for particularly sensitive use such as a day nursery or housing likely to be used by families with children. In such cases, the Local Planning Authority should normally require at least a desk study of the readily-available records assessing the previous uses of the site and their potential for contamination in relation to the proposed development. If the potential for contamination is confirmed, further studies by the developer to assess the risks and identify and appraise the options for remediation would be required.

Policy SU11 will permit the development of known or suspected polluted land where the application is accompanied by a site assessment and detailed proposals for the treatment, containments an/or removal of the source of contamination, appropriate to the proposed future use and surrounding land uses and to prevent leaching of pollutants. Permission will not be granted for the development of polluted land where the nature and extent of contamination is such that even with current methods of remediation as a result of the proposed development people, animals and/or the surrounding environment would be put at risk. Where the suspected contamination is not felt to be significant or not high risk, permission may be granted subject to conditions requiring a site investigation and any necessary remedial measures.

The site appears to have been in previous use a petrol and diesel storage,

which together with the existing commercial use on the site could give rise to contamination issues. A phase 1 Environmental Assessment has been submitted with the application and the comments from environmental health consider that this needs amending.

Therefore, a condition is recommended requiring full contamination reports to be submitted at the relevant stage to ensure the satisfactory outcome of the environmental health issues.

Sustainability (including Waste Minimisation)

Any new residential building upon the site would need to conform to the requirements of SPD08. This means that a fully completed Sustainability Checklist would need to be submitted with the application and the building must meet Level 3 of the Code for Sustainable Homes as a minimum.

In addition, and to conform to the requirements of policy SU2, any development must demonstrate that issues such as the use of materials and methods to minimise overall energy use have been incorporated into siting, layout and design. This is particularly prudent in relation to any internal bathrooms. The comments from the Sustainability Officer are noted, in that the measures incorporated into the scheme are somewhat modest, but do meet the requirements of the policy and thus are acceptable.

The applicants have submitted a Sustainability Checklist with the application and have detailed a commitment to reach Code Level 3 of the CSH in accordance with the requirements. Conditions are recommended to ensure that Code Level 3 is met.

Policy SU13 requires the submission of a site waste management plan for a scheme of this nature, a statement was submitted and a condition is recommended to require full compliance with the submitted details.

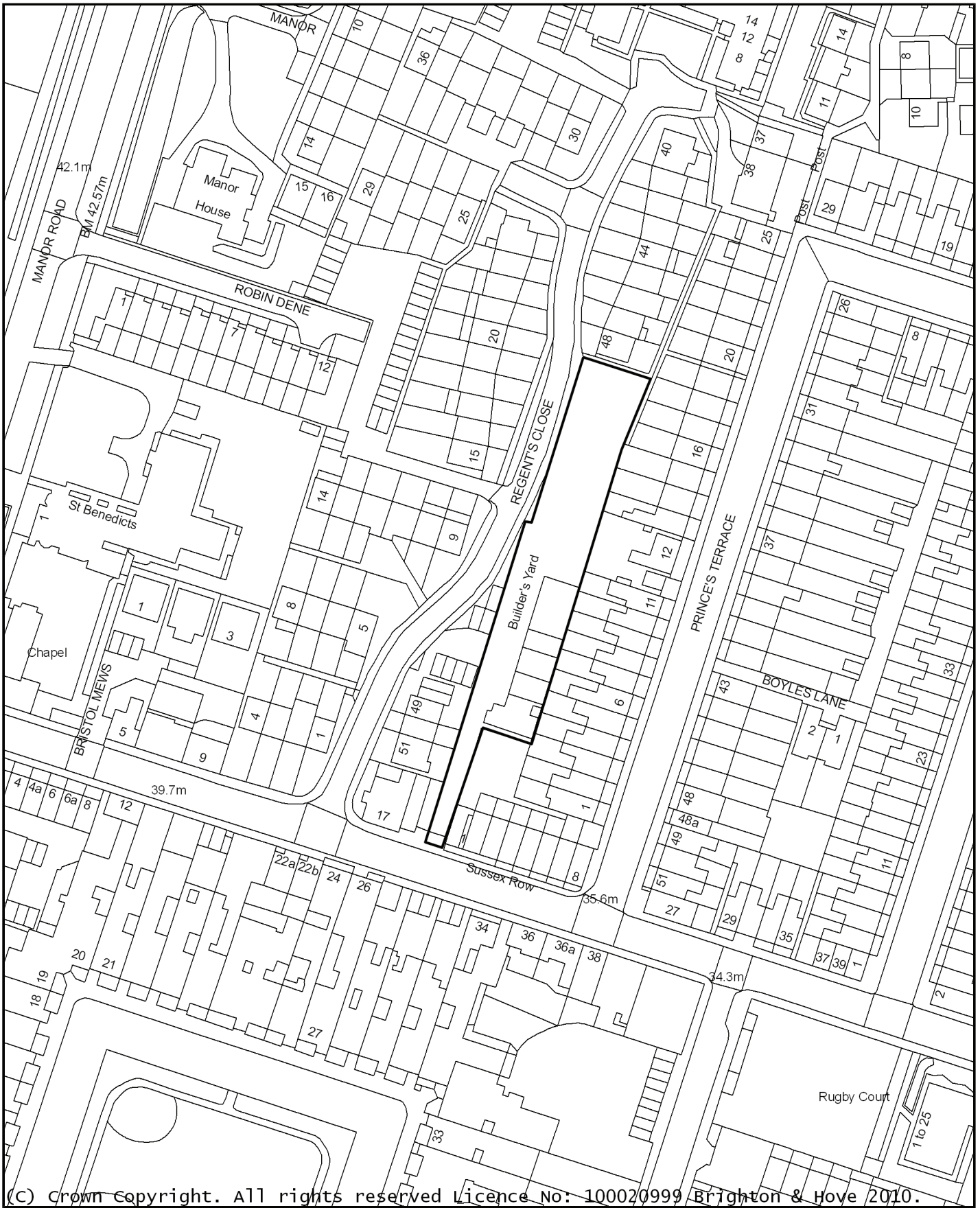
9 REASON FOR THE RECOMMENDATION TO GRANT PERMISSION

The proposed development would integrate effectively with the scale, character and appearance of the street scene and wider area, would cause no undue loss of light or privacy to adjacent occupiers and would be of appropriate materials to ensure that it would integrate effectively with the wider area. The units would achieve acceptable levels of living conditions for the future occupiers. Subject to condition, the proposals would have an acceptable impact on sustainability objectives and cause no detrimental impact on highway safety. Therefore, the proposal is considered to be in accordance with development plan policies.

10 EQUALITIES IMPLICATIONS

The development accords with Lifetime Homes standards.

BH2009/01355 Wolseley Build Centre, 19 Bristol Gardens



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Brighton & Hove City Council

PLANS LIST – 09 JUNE 2010

COUNCILLOR REPRESENTATION

Mr Alex Bailey,
Acting Chief Executive
Brighton & Hove City Council

27th July 2009

Dear Alex,

**Re: Planning application BH2009/01355.
Wolseley Build Centre Site, 19, Bristol Gardens, Kemp Town.**

I would like this letter to be placed on the agenda of the relevant Planning Committee meeting and for either myself or a ward councillor colleague to be able to attend to speak to it.

The Wolseley Build Centre site is a narrow, constricted site set between two existing residential roads and in an area of high-density housing. The adjacent 'Clyde Arms' public house site was fairly recently redeveloped to provide 9 units of housing and an application is expected soon for the redevelopment of the nearby ex-convent site that could see up to an additional 80 units of housing in this same small area. Pressure on parking and other services is acute, exacerbated by the expanding Royal Sussex County Hospital in the vicinity.

Considering the factors outlined above, I consider that the number of units of housing being proposed for this small site amounts to an overdevelopment and would ask that the Planning Committee take this and the following factors into consideration when determining this application:

Existing brick and flint boundary walls to East and West of site.

It is essential that these attractive, old walls are retained and that conditions are attached that will ensure their future maintenance and repair. Ownership of these walls needs to be clarified. Drainage systems from the new dwellings should not undermine the foundations of these walls.

Site levels

The ground level of the application site is significantly higher than that of the adjacent rear gardens of Princes Terrace on the other side of the Eastern boundary wall. It is important that this difference in height is taken into account when considering issues of potential loss of light either from the proposed new dwellings or the new boundary planting as suggested on the plans.

Cont/



Brighton & Hove City Council

PLANS LIST – 09 JUNE 2010

COUNCILLOR REPRESENTATION

Parking

The proposed development will result in a net loss of three on-road parking spaces in an area where parking availability is already under enormous pressure. There will also be additional competition for on-road spaces from visitors and any other parking not provided for within the application. It is essential that adequate off-road parking is provided for as part of any redevelopment of this site and that speed reduction measures are urgently considered for Bristol Gardens before increasing the volume of traffic along this dangerous road.

Balconies / Roof Terraces

Given the close proximity of the rear elevations of the proposed new houses a condition should be attached if possible that would prevent any balconies or roof terraces being built for reasons of privacy for the rear gardens of Princes Terrace.

I would ask members of the Planning Committee to seriously question whether this number of dwellings packed into such a small site is suitable and to take into account the effect on the existing amenities of the area.

Yours sincerely,

Councillor Gill Mitchell
East Brighton Ward

<u>No:</u>	BH2010/00083	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type</u>	Full Planning		
<u>Address:</u>	Land to rear of 67-81 Princes Road		
<u>Proposal:</u>	Construction of 6 no. three-storey, two bedroom terraced houses with pitched roofs and solar panels. Provision of private and communal gardens, waste and refuse facilities, and erection of a street level lift gate-house with cycle store.		
<u>Officer:</u>	Kathryn Boggiano, tel: 292138	<u>Valid Date:</u>	11/01/2010
<u>Con Area:</u>	Round Hill	<u>Expiry Date:</u>	08 March 2010
<u>Agent:</u>	Morgan Carn Partnership, 79 Stanford Avenue, Brighton		
<u>Applicant:</u>	Carelet Ltd, 40 Cornelius House, 178-180 Church Road, Hove		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves that it is **MINDED TO GRANT** planning permission subject to an appropriate landscape scheme being submitted and subject to the following Conditions and Informatives:

Conditions

1. BH 01.01AA Full planning.
2. BH12.06 No permitted development (extensions) – Cons Area (character).
3. BH02.07 Refuse and recycling storage (facilities).
4. BH12.01 Samples of materials – Cons Area.
5. The iron gate within the front wall shown on the approved plans shall be painted black prior to the occupation of the development hereby permitted and shall be retained as such.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.
6. Notwithstanding the approved drawings the window proportions in the 'gatehouse' extension shall be of similar proportions to those within the existing properties in Princes Road. All new windows in the 'gatehouse' extension shall be painted softwood and shall be retained as such. No works shall take place until full details of the windows have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented fully in accordance with the approved details and retained as such thereafter.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.
7. No works shall take place until full details of the door within the south east elevation of the 'gatehouse' extension shown on the approved drawings have been submitted to and approved in writing by the Local Planning Authority. The door and surround shall be painted softwood and the scheme shall be carried out in accordance with the approved details

and retained as such.

Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

8. No development shall take place until protection measures for the TPO Chestnut tree at the entrance to the site set out in the tree report submitted 11 January 2010 have been fully implemented. Once the measures are in place the Local Planning Authority shall be informed in writing no less than 14 days prior to development commencing on site. The development shall then be carried out in strict accordance with these protection.

Reason: To ensure adequate protection of the trees in accordance with QD16 of the Brighton & Hove Local Plan SPD06 Trees and Development sites.

9. BH04.01 Lifetime Homes.

10. No development shall take place until details of the ambulant stairs including railings have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with the approved details.

Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to ensure a satisfactory appearance to the development and to comply with policies HO13 and QD1 of the Brighton & Hove Local Plan.

11. BH05.10 Hard surfaces.

12. BH06.03 Cycle parking facilities to be implemented.

13. BH06.04 Sustainable transport measures.

14. BH15.06 Scheme for surface water drainage.

15. Unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until:

- (a) evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage/Interim Report showing that the development will achieve Code level 4 for all residential units have been submitted to the Local Planning Authority; and

- (b) a Design Stage/Interim Code for Sustainable Homes Certificate demonstrating that the development will achieve Code level 4 for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

16. Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 4 has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

17. BH08.01 Contaminated Land

- (i) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority:
- (a) a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice;
and, unless otherwise agreed in writing by the Local Planning Authority,
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175:2001;
and, unless otherwise agreed in writing by the Local Planning Authority,
 - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include the nomination of a competent person to oversee the implementation of the works.
- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of (i) (c) above that any remediation scheme required and approved under the provisions of (i) (c) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise:
- a) as built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress; and
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under (i) (c).

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

18. No development shall commence until noise mitigation measures have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented fully in accordance with the approved details and retained as such thereafter.

Reason: To safeguard the amenity of the occupiers of the development

and to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 0409-100, 0409-101, 0409-102, 0409-104, 0409-104 submitted on 11 January 2010, 0409-105A, 0409-108C, 0409-109A, submitted on 21 April 2010. 0409-106C 0409-107B and 0409-110D submitted on 18 May 2010.
2. This decision to grant Planning Permission has been taken:
 - i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, including Supplementary Planning Guidance:

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU5	Surface water and foul sewage disposal infrastructure
SU10	Noise nuisance
SU11	Polluted land and buildings
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
SU15	Infrastructure
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – full and effective use of sites
QD4	Design – strategic impact
QD7	Crime prevention through environmental design
QD15	Landscape design
QD16	Trees and hedgerows
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD20	Urban open space
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling types and densities
HO4	Dwelling densities
HO5	Provision of private amenity space
HO6	Provision of outdoor recreation space
HO7	Car free housing
HO13	Accessible housing and lifetime homes
HE6	Proposals in Conservation Areas.

Supplementary Planning Documents

- SPD03: Construction and Demolition Waste
- SPD06: Trees and Development Sites
- SPD08: Sustainable Building Design

Supplementary Planning Guidance

- SPG04: Parking Standards

Planning Advice Notes (PAN)

- PAN03: Lifetime Homes; and

ii) for the following reason:

The proposal would provide the City with six dwellings each with private amenity space. The scheme is of an acceptable design which would not harm the character or appearance of the conservation area and includes ecological and landscape enhancements. The development will not cause demonstrable harm to the residential amenity of neighbouring dwellings and with the imposition of conditions to control the scheme in detail, it accords with the Development Plan.

3. IN.05.02 Informative: Code for Sustainable Homes.
4. The applicant is advised that the requirements of Condition 14 may be satisfied by the completion of a Unilateral Undertaking or Agreement under s106 of the Town and Country Planning Act 1990, to provide £9,000 to fund improved sustainable transport infrastructure in the vicinity.
5. The applicant is advised to contact the Council's Arboriculturalist prior to development commencing on site once the protection measures for the Chestnut tree at the entrance to the site as set out in the tree report submitted with the application have been put in place.
6. Prior to any works commencing on site, the applicant is advised to contact Network Rail to inform them of intention to commence works no less than 6 weeks prior to the date of works commencing on site. Any scaffolding which may be constructed within 10m of the railway boundary fence must be erected in such a manner that at no time any poles shall over-sail the railway and protective netting around the scaffolding must be installed.
7. Any further investigation works carried out in terms of Condition 20 and land quality and contamination shall include leachability testing to determine the risk to ground water and additionally the potential for ground gases to impact on the proposed development.
8. Condition 4 requires the submission of all materials for the dwellings as well all materials for the gate house structure including the surrounding

timber cladding.

2 THE SITE

The site is a rectangular plot of land to the rear of Nos. 67-81 Princes Road, a row of terraced houses that step down the slope from west to east. There is a significant drop in land levels behind the houses of approximately 1 - 2 storeys.

Immediately to the north of the site, in a cutting, is the Brighton to Lewes railway line and to the east, also at a lower level, the Centenary Industrial Estate. To the west, the site boundary is formed by the garden of 65 Princes Road.

Access to the site is currently gained either through the rear garden of no.67 Princes Road or through land at the side of no.81, which has a very steep access down into the site.

The site is positioned on an overall hill slope running down from a ridge, with the site level below that of the Princes Road terraced houses, and approximately 11m above the railway corridor. Beyond the railway line to the north is the Hollingdean Waste Transfer site which partially obscures the site however due to its elevated position the site is quite visible, from the north in particular. There is also a level change increasing from east to west across the site.

The vegetation on site was cleared some time ago. There is a Tree Preservation Order on a horse chestnut tree located just inside the site and visible from Princes Road on the land adjacent to no.81 Princes Road.

The site is located within the Round Hill Conservation Area.

3 RELEVANT HISTORY

The planning history dates back to the 1950's and is as follows:

BH2009/00847: Construction of 4 no. two-storey, two bedroom terraced houses with pitched roofs, solar panels and rooflights. Provision of private and communal gardens, waste and refuse facilities, and erection of a street level lift gate-house with cycle store. Approved at the meeting of Planning Committee on the 22nd July 2009.

BH2007/04444: Erection of 8 new two and three storey houses at the rear and a single storey lift house onto Princes Road. Provision of private and communal gardens, refuse storage, cycle storage and one car parking space. Appeal against non-determination lodged. On the 18 June 2008 Planning Committee resolved that they would have refused planning permission for 8 reasons which are summarised below:

- Excessive site coverage and inadequate boundary separation, overly large unit proportions and inadequate space around the proposed dwellings -

overdevelopment of the site resulting in overlooking to and cramped living conditions for future occupiers.

- Excessive building height in relation to plot size, excessively deep and bulky proportions, bulky terraces, inappropriate materials, and lack of separation to site boundaries and failure of the ridge heights to appropriately step down following the gradient of Princes Road, resulting in a poor appearance that was incongruous with the existing Princes Road terrace, harmful to the setting of the terrace properties and views into the area and the character and appearance of the Round Hill Conservation Area.
- Failure to provide for the resulting travel demand and would be likely to exacerbate the existing on-street parking stress and result in the displacement of existing resident parking.
- The bulk, height and lack of separation to adjoining site boundaries would appear overbearing and result in overlooking and a loss of privacy to the rear of the Princes Road properties.
- The loss of a greenfield site which had significant ecological interest and failure to incorporate nature conservation mitigation and enhancement measures within the design of the proposal resulting in failure to address and mitigate the adverse impacts of the development on the nature conservation value of the site.
- The solar panels would result in a cluttered roofscape, and insufficient information has been submitted with regard to their appearance, and lack of information regarding their contribution to sustainability.
- Failure to demonstrate that the development would not adversely impact on the Horse Chestnut tree which is adjacent to the proposed access to the site.
- The off road parking space and cross over from Princes Road, would be detrimental to the character and appearance of the conservation area.

The appeal was dismissed on grounds of visual impact and impact on longer views into the conservations area; parking; and living conditions for future residents and poor levels of privacy due to overlooking from the rear of Princes Road properties.

BH2006/03214: Erection of 9 three storey terrace houses at the rear and a single storey lift house onto Princes Road. Provision of private and communal gardens, refuse storage, cycle storage and one parking space. Refused on the 11th of December 2006. The reasons for refusal are summarised below:

- Excessive site coverage and inadequate boundary separation, overly large unit proportions and inadequate space around the proposed dwellings, considered to be an overdevelopment and resulting in cramped living conditions for future occupiers;
- Excessive building height of the terrace in relation to plot size, excessively deep and bulky proportions, bland front elevation and bulky terraces, inappropriate materials, lack of separation to site boundaries, resulting in an incongruous poor appearance to the Princes Road terrace properties and views into the area and the character and appearance of the

conservation area;

- Design of the lift house, by reason of its proportions, flat roof and material, would relate unsympathetically to the existing terrace and surrounding area and would be detrimental to the character and appearance of the Conservation Area;
- The car free development fails to provide for the resulting travel demand and would be likely to exacerbate the existing on-street parking stress and result in the displacement of existing residents parking;
- Loss of an area of habitat that potentially could be supporting slowworm and other species and is within a designated Greenway;
- Development would be overbearing and would result in overlooking and a loss of privacy to properties at the rear on Princes Road;
- Inadequate information provided regarding the reduction of raw materials and construction waste minimisation measures.

An application was submitted during the course of the appeal ref: **BH2005/02279** for the erection of a 4/5 storey block of 21 flats at the rear (with 9 affordable units) and a gatehouse with two storeys onto Princes Road and 3 basement levels. Provision of communal gardens, refuse store, cycle storage and one car parking space.

The proposal was considered to be of excessive bulk and scale, a cramped development of the site with poor living conditions for future occupiers, and likely to cause detriment to the living conditions of adjoining properties and potential detriment to the protected horse chestnut tree. Accordingly this application was refused on 3rd February 2006.

BH2004/03605/FP: Erection of 30 flats in development comprising part five/part six storey building to rear of nos. 67-81 Princes Road and two storey building (with three basement floors) adjacent to 81 Princes Road. Provision of communal gardens, refuse store, cycle storage and one car club parking space. This application was refused as an excessive scale building that was an overdevelopment of the site resulting in a cramped environment that was out of character with the surrounding area and would cause a loss of privacy and an overbearing impact on neighbouring properties. The coach house was considered unsympathetic in relation to the surrounding area. The scheme was also considered to be detrimental to the protected tree and failed to demonstrate incorporation of sustainability measures.

This decision was appealed by the applicant, and this appeal was dismissed. In dismissing the appeal, the Inspector made specific observations about the proposed development and the site.

The Inspector identified three issues as forming the basis of the case;

- the inconsistency of the bulk and scale with the surrounding Conservation Area
- the excessive density of the proposal and resulting inadequate living conditions for future occupiers (including specific reference to amenity

- space)
- the impact of the proposal on adjoining residential properties.

The Inspector also considered that the proposed gate house building would sit awkwardly in relation to the adjoining property and that the proposed flat roof would be wholly out of context with the surroundings.

65.2110: O/A Erection of 24 garages. Refused.

53/703: O/A 22 lock-up garages. No decision.

50/958: Proposed use of land as poultry farm and erection of hen house. Approved.

50/958: Proposed Nissen Hut to keep hens. Refused.

4 THE APPLICATION

The application seeks planning permission for the erection of six three storey, two bedroom terraced dwellings. Each dwelling would have provision of private amenity space to the rear of each dwelling and shared amenity space to the front of the terrace. The proposal also includes provision of a street level lift contained within a 'gatehouse' extension which would also contain a refuse/recycling store and cycle parking at a lower level. The site would also be accessed via an external staircase to the east side of the gatehouse. The Chestnut Tree at the entrance to the site from Princes Road is to be retained. No off street vehicle parking is proposed.

5 CONSULTATIONS

External:

Neighbours: The addresses of the objectors are included within appendix A of this report. A total of **164** letters of objection were received. Of these, **50** were individual letters of objection. The content of these letters is summarised as follows:

- The scheme would result in the loss of a greenspace in an area with few open spaces.
- The site is too small for the amount of dwellings and they will appear cramped adversely impacting on the Round Hill conservation area.
- The increase in height of the dwellings would be of detriment to views into the conservation area from the north and east.
- The applicant is responsible for the litter on the site.
- Proposal would result in overlooking to and loss of privacy at properties on Princes Road.
- Adverse ecology impacts. The site used to be a wildlife buffer and habitat until all vegetation was stripped.
- Health and nuisance implications for future residents living so close to the waste transfer station.
- There is not enough space for family housing, the accommodation will be cramped and have a poor outlook.
- Adverse impact on on-street parking in the area and highway safety impacts. Inadequate parking surveys have been carried out.
- Construction vehicles will damage roads.

- The scheme will damage the protected chestnut tree.
- The proposal is contrary to pre-application advice given to the applicant before the approval of the 4 dwellings (to reduce the number of units, scale and massing).
- SPD08 expects all Greenfield development to incorporate Zero annual net CO2 from energy use and to reach level 5 of the Code for Sustainable Homes (CSH).
- If the lift is broken how will access be provided?

114 standard letters of objection have been received. The grounds of objection are summarised as follows:

The applicant states that their vision is to stop the increasing problem of the site being used as unauthorised tip. However, most of the waste is from the demolition of steps into the site and the demolition of conservatory owned by the applicant.

There are significant differences between this application and the previous approved scheme.

1. The additional height will badly compromise longer views into the conservation area from the north and east. The Inspector's appeal decision valued the green space characteristic of the site and its contribution towards the character and appearance of the conservation area and to the visual amenity of local residents.
2. Provision for parking remains a major concern. The Inspector was not impressed with a 'one beat survey undertaken during the early hours, on one weekday in August'. This current scheme has recycled the survey performed in January 2009 which only samples on-street parking at 12 noon and 8pm on a Wednesday, and not at a weekend where demand is higher. The applicant's claim that parking is available in Ashdown Road, Springfield Road is not accurate. In addition, there have been recent residential applications approved in the area which will exacerbate the problem.
3. Although the footprint is the same, the height has increased which means that the proposal would not be 20 metres from the rear of properties on Princes Road (as recommended by CABE guidance). The scheme is more cramped than before and the close proximity of the scheme in relation to the waste transfer station will result in noise, odour and particulate problems which are likely to have a significant impact on the quality of life of future residents.

The addresses of the supporters are also included within appendix A of this report. There have been **13** letters of support. Of these **4** are individual letters of support. The letters are summarised as below:

- The housing is a much needed addition to the area.
- The scheme is a contemporary design which responds to its immediate setting.

- The scheme is highly sustainable.

There have been **7** standard letters of support received, and these are summarised below:

- The scheme has taken into account all the good aspect of current design and sustainable living. The houses are very sensitive in appearance and scale to the neighbours and will hardly be visible from Princes Road.
- The contemporary design will be an asset and the green roofs a valuable environment to encourage biodiversity and the proposed gardens will be very attractive to new and existing residents.
- More of these backland sites should be developed in order to save countryside from being developed.

Following the receipt of amended plans, additional consultation has been carried out with adjacent neighbours. An additional **4** letters of objection have been received which raise the following points (addresses contained within appendix A):

- Exposure of future residents to noise from the railway line and waste transfer station;
- Not enough natural light to dwellings;
- Development not appropriate to the area;
- New dwellings will be overlooked;
- Increased traffic and parking congestion.

CAG: The group reiterated their previous comment below. The Round Hill Society requested the case officer thoroughly compares both schemes and photos showing viewpoints from the top of Bear Road, some streets in Upper Hollingdean, Hollingdean Terrace, Harrington Place and the 2nd bus stop in Davey Drive are included in the presentation to the Planning Committee.

Previous CAG comment 19 May 2009

The group recommended refusal on the grounds of overdevelopment of a green space. Further grounds for refusal were the impact it would have on the conservation area, particularly the view from the top of Bear Road and Davey Drive; problems of access both in future and for construction are possibly insurmountable; the loss of screening from the industrial estate; and they were also concerned about the chestnut tree's preservation, which would be affected by this development. The group expressed concern over reports of the loss of trees and general degradation of wildlife on the site since the last planning application. This application should be considered by committee if the recommendation is for approval.

Internal:

Planning Policy:

Summary

Whilst the principle of residential development on this backland site has been established, this application for 6 dwellings needs to be very carefully considered. Last year approval for 4 dwellings on this site was granted

following careful consideration of a very finely balanced case relating to open space. A previous application for 8 dwellings was refused and dismissed at appeal. The key issues therefore relate to the detail and individual merits of this proposal.

Conservation & Design:

Final comments 22 April 2010: Recommend approval subject to conditions. The design amendments are acceptable. However the planting scheme should involve some semi-mature trees with appropriate species between to provide a robust green edge.

Comments 12 April 2010 following the submission of additional visuals by the applicant. Recommendation: seek amendments.

Although this scheme represents an increase in density and height of the proposed development of this site, it is considered that with some amendment to details the effect on the character and appearance of the conservation area can be made acceptable.

Following the submission of additional architects' impressions, further comparisons between the approved scheme and the current scheme are now possible. In the light of this new evidence it is considered appropriate to review the comments previously made on this scheme.

This is an area of green space that, following the development of the waste transfer site, is only visible in certain views from the north, however from Davey Drive this site is clearly visible. The Round Hill Conservation Area is characterized by ribbons of green space that are not visible from the public highway within the conservation area, but are recognized by the adopted Round Hill Conservation Area character statement as being an important feature of the conservation area, reflecting the planned Victorian layout of the area, and the effect of this proposal on this aspect of the conservation area is a most important consideration. Unfortunately the mature line of trees marking the junction of the former Kemp Town Branch railway line have been removed from the northern edge of the site, and the visual effect of a green ribbon have already largely been lost at this point, along with qualities of the plot as a green space and a wildlife habitat.

Design and layout:

The proposed footprint of the houses is along the lines of the previous (approved) scheme and has reduced site coverage compared to the refused application, leaving more open space, and the possibility of enhanced boundary planting to ameliorate the loss of trees that has already occurred. It is not considered that the landscaping shown on the proposals plan is sufficient for the benefit of future occupiers (to screen the views of the waste transfer site and industrial units) or to improve the long views of the area, and a significantly more substantial scheme of landscaping is required to re-establish the tree belt along the north-west boundary of the site. This will

improve outlooks for both existing and future residents and to soften the impact of the development in long views. In time, new planting as part of this development could go some way to re-establishing the green ribbon effect. The height of the development has been significantly increased from the previous scheme, although the stepping of the buildings to follow the fall of the land remains in character with the conservation area generally. In the approved scheme only the top floor protrudes above the boundary wall where as the bulk of the houses rise above it in the current scheme. In addition the green roofs would sit far out of the site and would not appear part of the landscape to the same extent as the previous scheme. Additional information submitted to allow comparison of the current scheme with the approved scheme in views from Davey Drive and Harrington Place, show that at this distance the impact of the current scheme is not significantly more harmful to the conservation area than the approved scheme. Closer views of the site are not available due to the large buildings of the waste transfer site being in the way.

The increase in the number of units makes the site appear far more cramped on the plans however this looses its impact in distant views. The break in the eaves line of each property with contrasting materials and the absence of chimneys from the roofline is in contrast to the established roof forms within the conservation area generally (and with the approved scheme), and it is requested that amendments are made accordingly. In addition it is considered that the green roofs are inappropriate where the height of the properties has increased to the extent that they no longer sit within the form of the land, and it is suggested that traditional slate coverings would be more appropriate. The proposal still includes aluminum windows and it is considered that they should be timber.

The south east elevation does not show the solar panels indicated on the roof plan.

Gatehouse and front boundary:

The design of the front elevation of the gatehouse to match to the detailing of number 81 is acceptable, as this would be viewed rather like an extension. The proposed boundary treatment is considered appropriate.

Considerable concern remains over the limitation the protected chestnut tree imposes on the development of this site and the likelihood of the tree being harmed during the construction phase.

Initial comments 29 March 2010: Recommend refusal of the scheme.

Summary

The increased intensity and height of the proposed development compared to the previous scheme causes concern over the effect that the new housing would have on the character of the conservation area as viewed from the north. It is no longer considered that the impression of a green edge to the Round Hill development will be given, and the development is therefore not

considered to respect the character of the conservation area.

This is an area of green space that, following the development of the waste transfer site, is only visible in certain views from the north, however from Davey Drive this site is clearly visible. The Round Hill Conservation Area is characterized by ribbons of green space that are not visible from the public highway within the conservation area, but are recognized by the adopted Round Hill Conservation Area character statement as being an important feature of the conservation area, reflecting the planned Victorian layout of the area, and the effect of this proposal on this aspect of the conservation area is a most important consideration. Unfortunately the mature line of trees marking the junction of the former Kemp Town Branch railway line have been removed from the northern edge of the site, and the qualities of the plot as a green space and a wildlife habitat have been considerably diminished.

Gatehouse and front boundary:

The design of the front elevation of the gatehouse to match to the detailing of number 81 is acceptable, as this would be viewed rather like an extension. The proposed boundary treatment is appropriate to the character of the conservation area.

Considerable concern remains over the limitation the protected chestnut tree imposes on the development of this site and the likelihood of the tree being harmed during the construction phase.

Sustainable Transport Manager: No objections to the scheme, subject to the inclusion of conditions to require that cycle parking is provided on site and that the applicant enters into a legal agreement with the Council to contribute £9,000 towards improving accessibility to bus stops, pedestrian facilities and cycling infrastructure.

Car parking

The site is located outside of a CPZ. SPG4 requires dwellings outside a CPZ to provide a maximum of 1 car parking space plus 1 space for visitors per 2 dwellings on site. This development could therefore provide a maximum level of parking for up to 9 vehicles.

The development does not propose any on street parking provision. A technical note has been provided by the applicant assessing the anticipated parking demand of the development along with current on street parking provision. The document details that there is sufficient capacity on the local highway network to provide for the parking demand the proposed development generates. Having reviewed the supplied document we do not disagree with the conclusion and agree that the development will not constitute a material worsening of the existing highway situation that would support a recommendation for a refusal.

Cycle parking

The proposed cycle parking is in accordance with Local Plan policy TR14 and

SPG4.

Trip generation

The proposal is anticipated to generate an additional 60 people trips on a daily basis using the highway network, this is based on the standard generation of 10 trips per dwelling. This anticipated trip generation combined with the accessibility reduction factor has formed the basis for the level of contribution required.

Number of residential units x person trip rate x £200.00 x reduction factor = contribution.

6 x 10x 200x0.75=£9,000.

Environmental Health:

Noise

The applicant, by proposing to build one storey higher with living accommodation and master bedrooms at the top, needed to demonstrate that there was no adverse noise impact on residents. An acoustic report from Anderson Acoustics therefore been produced to address this and it is important to note the content and specifically the following:

“The calculations have shown that with the standard thermal double glazing, a good internal noise environment should be achieved inside bedrooms fronting the railway line. However with the windows partially open, the internal noise level increases above that considered reasonable in accordance with BS8233, which is the British Standard. It is further noted that the night time guideline level of 45dB could be exceeded with the windows partially open.”

And the report continues:

“To ensure adequate protection against external noise it is therefore recommended that the new proposed master bedrooms on the second floor be fitted with at least standard thermal double glazing and a ventilation system so that the bedroom windows can remain closed if required by the future residents.”

In layman’s terms, opening the windows will increase the noise levels beyond those considered reasonable within the British Standard both in the day and at night, however the report author has detailed that this may be mitigated against using a ventilation system and double glazing as above. The future residents therefore then has a choice as to whether they wish to open the window/s accordingly.

Note that in the previous scheme in 2009/00847 noise had been conditioned and should the local planning authority wish to grant consent, they may choose to apply a similar condition.

Potentially Contaminated Land

The applicant as part of the application has provided a site investigation

report which has been submitted with previous applications. Given its findings of elevated levels of lead, zinc and poly aromatic hydrocarbons, a condition is necessary to safeguard the end users and ensure remediation of the site. It is consistent that the same condition be recommended as previously regarding site investigation and remediation work.

Ecologist: Comments on the previous scheme (BH2009/00847) are below: The existing site is not of particular nature conservation value, given that it was cleared of vegetation recently. Therefore the Local Plan policy of particular relevance ecologically in policy QD17 which requires new nature conservation features to be integrated into the development. The application makes mention of the following nature conservation enhancement measures, although no further details are provided:

- A wildlife pond,
- Landscape planting,
- Sedum roofs,
- Chalk grassland roofs,
- Green walls (supported by a trellis system),
- Bird (Staring and Sparrow) and bat nesting boxes on each house.

To ensure these proposed measures successfully deliver nature conservation gain, a condition should be attached to any planning consent requiring the submission of a nature conservation plan for agreement in writing by the council prior to commencement of development. The plan must be produced by a qualified ecologist and should include details of the construction and maintenance of all the above nature conservation features, including materials to be used, dimensions, plant species and cross sections of the green roofs. The plan should also define the numbers of boxes of each type to be used (which should be manufactured from 'woodcrete' or equivalent) and their locations.

Arboriculturist: In light of the fact that the Planning Inspector considered that the tree could be protected, it is felt we are not in a position to object to the application.

The updated Arboricultural Report submitted with this application should provide the tree with adequate protection as long as it is followed to the letter, however, the position of the tree here is so close to the access road, that its retention post-development cannot be guaranteed.

The Arboricultural Section would like it made a condition of any planning consent granted that all trees remaining on site are protected to BS 5837 (2005).

The Horse Chestnut should be protected as per the submitted Arboricultural Report, the Arboricultural Section would like to be notified when the protection measures are in place and view prior to any development commencing.

Since the 2007 application was submitted, some trees along the boundary of the site were felled by person or persons unknown. The conservation area finished on the boundary with the factory and it was by no means certain that the trees were in the conservation area. In addition the majority of them were not of the size to be covered by conservation area / tree legislation. They were mostly self-seeded sycamores that had grown up on the boundary. Although it is likely this work was not carried out by the owner / developer of the site, we would like it made a condition of any planning consent granted that trees are replaced on the site to compensate for this loss. They could be planted on the piece of land to the rear of houses 73 – 81 Princes Road and along the rear gardens of the new properties.

Accessibility Consultant: Due to the difficulty of gaining level access to this site it was accepted on previous applications that around half of the houses (5 out of 9 and then subsequently 2 out of 4) would be wheelchair accessible and the remainder would be accessed via easy going stairs. It seems reasonable to follow that principle with this application where 3 of the 6 proposed houses have sloping access.

Unfortunately, the increase in the number of units has resulted in a reduction in the size of the lounge/dining/kitchen areas which results in the space available in front of the kitchen units being compromised when allowance is made for reasonably anticipated furniture.

Urban Design Officer (Landscape comments): Recommendations for the railway boundary planting:

- To provide a gabion or crib wall in low terraces to allow for residents to plant up, retaining an area for family use/ quiet relaxation within the small gardens.
- Subject to change of level, it is advised that the gabion or crib wall, which could be a timber one, should comprise of a series of short, level planting terraces, to allow for cascading ground cover and residents own planting. The crib wall may be set at an angle of @ 60 degrees to ground level and should be secured for stability. The upper crib 'terrace' should be a minimum of 500mm width to allow for planting of a native shrub hedge. Depth of soils to be @450mm depth for the hedge and 300mm for other planting of ground cover. It is not advised that a standard crib wall construction that is steep with individual pockets for ground cover plants is used as these are often filled with gravel / plants that die due to the lack of irrigation.
- Trees:-Positions of trees to be planted along the boundary should not be set to the rear of garden nos 67 and 71 and the North West of garden no 73 due to the prevailing south westerly winds and likelihood of blowing over onto the railway track. The embankment along the railway should be designed to act as a buffer from the railway and reduce the possibility of wind blow. Planting of trees should commence from the North East of the rear of no 73.
- Suggested species set at the finished garden level to be:

Pinus sylvestris (Scots Pine). It is likely that these will only be available @ 1200- 1500mm height- larger stock are expensive and less likely to survive.

Additionally: *Ilex aquifolium*(native Holly) or *Prunus lusitanica* (Portuguese Laurel) could be used as a lower shrub belt. Plant @ 600-900mm height @ spacing of 900mm -2m apart

Betula pendula (Silver Birch) 900-1200mm height may be interspersed as the foliage is light- set in small groups.

All tree pits should be excavated to 1m x 1m diam and backfilled with good quality topsoil with peat free compost 30%.

Hedge- along top of crib/ terrace- *Crataegus monogyna*, Hawthorn and *Ilex aquifolium* (native Holly) set in a double row 300mm apart. This would minimally overhang the boundary.

- Green wall.

A simple system using only climbers planted into the ground in a depth of no less than 600mm topsoiled pit, is advised, set out from the wall, beyond overhang, to allow for natural watering by rain. Eg *Vitis henryana* fixed to simple line wires at equidistant rows slightly proud of the surface of the wall. Climbers that are growing upwards by suckering, eg ivies, are not advised on render.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU5	Surface water and foul sewage disposal infrastructure
SU10	Noise nuisance
SU11	Polluted land and buildings
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
SU15	Infrastructure
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – full and effective use of sites
QD4	Design – strategic impact
QD7	Crime prevention through environmental design
QD15	Landscape design
QD16	Trees and hedgerows

QD17	Protection and integration of nature conservation features
QD18	Species protection
QD20	Urban open space
QD27	Protection of amenity
QD28	Planning obligations
HO3	Dwelling types and densities
HO4	Dwelling densities
HO5	Provision of private amenity space
HO6	Provision of outdoor recreation space
HO7	Car free housing
HO13	Accessible housing and lifetime homes
HE6	Proposals in Conservation Areas.

Supplementary Planning Guidance Documents: (SPD's/SPG's)

SPGBH4:	Parking Standards
SPD03:	Construction and Demolition Waste
SPD06:	Trees and Development Sites
SPD08:	Sustainable Building Design

Planning Advice Notes (PAN)

PAN03:	Lifetime Homes
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Planning Policy Statement

3 Housing

Planning Policy Guidance

13 Transport

17 Planning for Open Space, Sport and Recreation

7 CONSIDERATIONS

The main considerations relating to the determination of this application are the principle of the proposed development, the impact on the character and appearance of the Round Hill Conservation Area, impact on neighbouring residential amenity and the standard of accommodation, impacts on traffic, ecology and the protected tree, sustainability and contaminated land and noise issues.

Principle of development

This backland site is located within a residential area adjoining the railway to the north and industrial uses to the east.

A key objective of PPS3 is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed. PPS3 defines previously developed land (brownfield) as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. This definition does not include land that is or has been occupied by agriculture.

When planning application BH2006/03214 was determined it was considered that the principle of residential development of the site has been accepted in the two previously refused applications and appeal decisions. In dismissing an appeal against non-determination of a scheme for 8 houses (BH2007/04444) the Inspector stated in paragraph 5 of his decision that, 'the principle of residential use has been accepted previously through consideration of earlier applications and an appeal decision.' The extant permission for 4 dwellings on the site (BH2009/00847) has also established the principle of residential dwellings on the site.

The application site has not been in use as private or public recreational open space. It is noted that the planning history for the site records an historic use as a poultry farm. It appears that there have been a number of different uses on the site, including stables, and the keeping of poultry. The site has been used as an extended garden for No.67 Princes Road, however, this was never formalised through a planning application. It is therefore considered that the site is a greenfield site.

However, PPS3, unlike PPG3 which it replaced, does not require a sequential test for the development of greenfield sites and development is not precluded in principle. It is therefore considered that the principle of residential use on the site has been established through the planning history and extant permission for 4 dwellings (BH2009/00847). However, the scale, form and density of any residential use on the site is subject to a number of detailed other material considerations which are detailed in full below.

Impact on Open Space Provision

Policy QD20 will not permit the loss of areas of public or private open space that are important to people because of their recreational, community, historical, conservation, economic, wildlife, social or amenity value. Enhancements to these areas of open space will be sought and the preservation of character, appearance, layout and features of importance. PPG17 seeks to protect both public and private open space.

When planning applications BH2004/03605/FP, BH2005/02279 and BH2006/03214 were determined by the Council it was considered that as the site had difficult access problems, it would be difficult to argue the loss of the site as open space with regard to PPG17 and policy QD20 of the Local Plan.

As stated in the Officer's reports for the previous schemes (BH2007/04444 and BH2009/00847), PPG17 advises that open spaces should not be developed unless they have been proven to be surplus to requirements (paragraph 10). However, when considering previous applications for this site a view was taken on what the site offered in terms of open space and regard was given to the site constraints.

The Council's Planning Policy Officer has commented that the approval last year of 4 dwellings (BH2009/00847) was made after the careful consideration

of a very finely balanced case related to the loss of and impact on open space provision. It is therefore appropriate to consider these issues again in relation to this current application for 6 dwellings.

The approval of 4 dwellings (BH2009/00847) had regard to a number of some unique and material considerations that when considered all together, were felt to justify an exception in this particular case. The main unique issues which were considered previously are included below:

- 1) *The unique planning history of this site including the last appeal decision.*
- 2) *The accessibility of the site which requires either a lift or an innovative ramp provision (subject to space constraints) to be DDA compliant.*
- 3) *The access arrangements for the site and its location which do not make this site very suitable for general public open space.*
- 4) *The past and current nature of the site and its open space 'offer' to the public which is constrained by its location and access arrangements.*
- 5) *By virtue of 2, 3 and 4 above it is unlikely the council, who has no statutory duty to provide general open space, will be in a position within the medium to long term future to purchase and enhance the site for general public use or for local community use.*
- 6) *Whilst the local community have indicated an interest in accessing and maintaining the site this is unlikely to arise in the medium term as the current owner is seeking development and there is no duty on an owner to actively use an open space, allow others to use or maintain it in a manner appropriate for nature conservation.*
- 7) *The applicant has sought to maintain an 'offer' of open space which arguably is similar to the current 'offer' - less than 25% of the site is proposed for development, landscaping enhancements are proposed, with the retention of a visual open space 'offer'.*
- 8) *The timing of this application which seeks to overcome recent reasons for refusal and the weight to be applied to the final report of the Open Space, Sport and Recreation Study which is not yet approved.*

Since the approval of the application for four dwellings (BH2009/00847), the Open Space, Sport and Recreation Study is now complete and has been adopted. This Study does not show a surplus of open space in the City. However, whilst more weight can be afforded to the Open Space, Sport and Recreation Study than could be when the previous application was approved, it should be noted that the Study is an evidence base document to inform the emerging Core Strategy, and is not itself adopted policy. It is considered that the extant permission has significant weight in the decision making process with regard to the loss of the open space.

Each case must be considered on its own individual merits and it is considered that this site presents some unusual material circumstances, as laid out by the Council's Policy Officer above, which do not present a strong case for the site's retention as open space. The key issue is considered to be in relation to the sites potential as public open space considering the

considerable difficulties and additional cost which would be incurred to overcome access constraints. The cost of purchasing the site and making it DDA compliant is likely to be significant and would provide only limited benefits to the City's overall open space provision due to the site's limited size and very steep access. The likelihood of the Council purchasing the site and bringing it forward for public use is therefore considered to be limited.

The site's value in visual terms only, i.e. without public access, is also considered to be limited due to the now limited views from the north since the development of the waste transfer site and the current state of the site. Without purchasing the site the Local Planning Authority would have little control over nature conservation/enhancement and landscaping.

When the previous application was approved, the footprint had been reduced considerably over the 2007 scheme for 8 houses which was dismissed at appeal. The reduced footprint allowed for planting and ecological improvement.

The footprint of the previously approved scheme for 4 dwellings (including patios at the lower ground) was 319.5 square metres. The footprint of this current application for 6 dwellings is 337.5 square metres. The footprint has increased by 0.5 metres along the depth of the terraced properties and by 0.4 metres along the length. This equates to an increase of 18 square metres in footprint. It is not considered that this is significant in terms of the amount of landscaping/planting which can be provided on site, and could not be justified as a reason for refusal on open space grounds. As with the previous approval, this current scheme also provides for ecological and landscaping enhancements on the site which will be secured by condition in accordance with the Council's Ecologist's advice, and will still ensure the site is enhanced in this regard.

Whilst the footprint is similar, the additional 2 dwellings will have an impact due to the increased compartmentalisation of the rear gardens and consequent increase in fencing and an increase in the paths and patios to the front. However, at the rear raised planters, rather than fencing are proposed to delineate the boundaries of the rear gardens. This should give the rear a softer edge. In any case, the gardens are not highly visible from the surrounding area. The area to the front where the paths and patios are proposed are not visible from any street scene or publicly accessible area, and are not highly visible from Princes Road properties due to the proposed ground level being at a lower level than the ground level of Princes Road properties. In addition, the overall area for patios is similar, and the siting of the main path is the same. There would be two additional small paths leading to the additional dwellings, however, these two additional paths are not considered to be a significant change in terms of a reduction in the proposed area available for landscaping.

The existing site is considered to provide limited benefit to the City as

designated open space provision for the reasons stated above. Overall, there has not been a significant change in the proposed area for planting/amenity space from that area approved under BH2009/00847 (4 dwellings). In this instance the benefit to the City of six family sized dwellings with private amenity space is considered to outweigh the limited benefit the site could make as an open space given the above considerations. The principle of residential development on this piece of open space is therefore considered acceptable in this instance, subject to other issues which are considered below.

Impact on the character and appearance of the area and Round Hill Conservation Area

Although PPS3 seeks to ensure the more effective and efficient use of land, the guidance also seeks to ensure that developments are not viewed in isolation and do not compromise the quality of the environment. PPS3 states that considerations of design and layout must be informed by the wider context, having regard not just to any immediate neighboring buildings but the townscape and landscape of the wider locality.

Policy QD3 of the Local Plan seeks the more efficient and effective use of sites, however, policies QD1 and QD2 require new developments to take account of their local characteristics with regard to their proposed design.

In particular, policy QD2 requires new developments to be designed in such a way that they emphasise and enhance the positive qualities of the local neighbourhood, by taking into account local characteristics such as height, scale, bulk and design of existing buildings, impact on skyline, natural and built landmarks and layout of streets and spaces.

Policy HE6 of the Local Plan requires development within or affecting the setting of conservation areas to preserve and enhance the character and appearance of the area and should show, amongst other things:

- a high standard of design and detailing reflecting the scale, character and appearance of the area, including the layout of the streets, development patterns, building lines and building forms;
- the use of building materials and finishes which are sympathetic to the area;
- no harmful impact on the townscape and roofspace of the conservation area; and
- the retention and protection of trees, gardens, spaces between buildings and any other open areas which contribute to the character and appearance of the area.

As described by the Council's Conservation Officer this is an area of green space that, following the development of the waste transfer site, is only visible in some views from the north. The Round Hill Conservation Area is characterised by ribbons of green space that are not visible from the public highway within the conservation area, but are recognised by the adopted

Round Hill Conservation Area character statement as being important features of the conservation area, reflecting the planned Victorian layout of the area. Also highlighted within the character statement is the importance of the stepped terrace and building line along the north side of Princes Road which is softened by the line of trees which mark the junction with the former Kemp Town branch railway line.

Unfortunately the mature line of trees marking the junction of the former Kemp Town Branch railway line have been removed from the northern edge of the site, and the qualities of the plot as a green space and a wildlife habitat have been considerably diminished. The Waste Transfer Station has been granted permission and has been completed since the adoption of the character statement. However, the impact of the scheme on views into the conservation area from the north is still an important consideration.

The design impacts of the scheme and the impact on the conservation area are considered in more detail below, and comparison is made between the 2007 application for 8 dwellings which was dismissed on appeal, the 2009 application for 4 dwellings which was approved and this current application for 6 dwellings (as submitted and the design as amended).

Design, scale and layout and longer views:

The previous scheme BH2007/04444, (which was refused and a subsequent appeal dismissed), comprised of 6 three storey and 2 two storey terraced houses. One of the reasons for refusal of BH2007/04444 was related to the design of the scheme and its excessive building height in relation to plot size, excessively deep and bulky proportions, bulky terraces, inappropriate materials, and lack of separation to site boundaries and failure of the ridge heights to appropriately step down following the gradient of Princes Road. This all resulted in a poor appearance that was incongruous with the existing Princes Road terrace and harmful to the setting of the terrace properties and views into the area and the character and appearance of the Round Hill Conservation Area.

In dismissing this appeal, the Inspector stated that although the site was not easily visible from Princes Road it was clearly seen in views from outside the conservation area to the north and east. Therefore its location within the conservation area coupled with its prominence in the wider area demanded that new development should fit entirely naturally into the scene. He considered that a design that is appropriate would most likely sit comfortably and harmoniously alongside its neighbours. The Inspector stated that 'squeezing eight houses into the site and the consequent lack of space for significant planting would harm visual amenity in relation to the green spaces characteristics of the conservation area as well as views into the conservation area from the north'. The 8 dwellings were proposed to be sited 1.3 – 2 metres back from the boundary with the railway land.

Whilst the Inspector noted that a building of contrasting contemporary design

would not necessarily harm the character and appearance of the Conservation Area, the stepping up and down, with two storey houses in the middle and at one end, would contrast sharply with existing houses on Princes Road which step down with the natural gradient of the land. Consequently, the design in terms of bulk and form was considered by the Inspector to fall short of that which is necessary to preserve the prevailing character of the conservation area. The Inspector considered that it would create entirely the wrong effect by emphasising the inappropriate form that would be a clear breach of the distinctive character of the existing terraces as well as being disruptive in its setting when seen from the north. Consequently, the Inspector considered that it would fail to match the form of development to the quality of the historic setting.

In order to address the failings of the 2007 scheme, after pre-application discussions with the LPA, the applicant amended the scheme and submitted an application in 2009 for four dwellings (BH2009/00847). This application was approved at Planning Committee on the meeting of the 22nd July 2009.

This approved scheme addressed the previous concerns in respect of the size of the footprint by reducing site coverage, leaving more open space, and incorporating enhanced boundary planting. A gap of 5.1 – 6.3 metres was proposed to the boundary with the railway land which allowed for more planting. The height of the development was also significantly reduced and helped to lower the impact of the scheme as seen in views into the conservation area.

The 2009 approved scheme also ran parallel with the Princes Road properties and contained 4 dwellings of a width of approximately 9.1 metres which stepped down varying heights between each dwelling of between 0.8 and 2.1 metres. It was considered important that the dwellings stepped down at irregular heights, as this would mirror the properties on Princes Road which step down at irregular heights, and also at irregular widths.

The footprint of the current scheme is very slightly increased over the approved scheme. The footprint of the previously approved scheme for 4 dwellings (including patios at the lower ground) was 319.5 square metres. The footprint of this current application for 6 dwellings is 337.5 square metres. The footprint has increased by 0.5 metres along the depth of the terraced properties and by 0.4 metres along the length. This equates to an increase of 18 square metres in footprint. It is not considered that this slight increase in footprint size is significant in terms of the scheme's visual impact.

More significant is the increase in height. The approved scheme was two storeys in height where this current scheme is three storeys in height. Prior to design amendments being made to this current scheme, and additional visuals being submitted, the Local Planning Authority had concerns regarding the height, change in design of the elevations and proposed materials. Concerns were raised over the potential harm the development may cause in

views into the conservation area from the north.

In response to these concerns the applicant submitted further visuals (photomontages) which highlighted the view of the approved scheme (4 dwellings) and the height of the proposed scheme (6 dwellings) in views from Davey Drive and Harrington Place. Following the submission of these further visuals Conservation & Design commented that although the height of the development has been significantly increased from the previous scheme, the stepping of the buildings followed the fall of the land and remains in character with the conservation area generally. In the approved scheme only the top floor protrudes above the boundary wall where as the bulk of the houses would rise above it in the current scheme. In addition the green roofs would sit far out of the site and would not appear part of the landscape to the same extent as the previous scheme.

However, the Conservation & Design Team also commented that additional information submitted to allow comparison of the current scheme with the approved scheme in views from Davey Drive and Harrington Place, showed that at this distance the impact of the current scheme is not significantly more harmful to the conservation area than the approved scheme. Closer views of the site are not available due to the large buildings of the waste transfer site being in the way.

The number of units makes the site appear more cramped on the plans however this looses its impact in distant views. The break in the eaves line of each property with contrasting materials and the absence of chimneys from the roofline is in contrast to the established roof forms within the conservation area generally (and with the approved scheme). In addition it was considered that the green roofs are inappropriate where the height of the properties has increased to the extent that they no longer sit within the form of the land, and it is suggested that traditional slate coverings would be more appropriate.

It was not considered that the height alone would have a significant detrimental impact on views into the conservation area from Davey Drive and Harrington Place, when compared with the approved scheme. However, the materials and design should be altered so that it is more characteristic of the conservation area.

Therefore the applicant was requested by the LPA to make the following amendments to the scheme:

- Replacement of green roofs with slate. Retention of sedum roofs on the front elevation (which faces towards rear of properties on Princes Road). Installation of a green wall on the north eastern gable wall which should soften the development without the need for green roofs.
- Rear elevation which faces towards the railway line - Removal of the dormers on each dwelling which project above the eaves height so that a common eaves height is achieved across all 6 dwellings. Windows

- replaced with conservation style roof-lights.
- Rear elevation which faces towards the railway line – Incorporation of chimneys into the design for each dwelling.
- Rear elevation which faces towards the railway line – Removal of the timber cladding. Tone down the proposed colour of render using different colours in order to reflect colour of properties immediately adjacent at Princes Road.
- All aluminium frames to be replaced with timber.

The applicant has submitted amended plans which have incorporated all of the above design changes. As a result of replacing the dormers with roof-lights the bulk of the scheme at the top floor has been significantly reduced which has also allowed for a common eaves line along the whole of the terrace.

On the rear elevation which faces towards the railway line the ridge height of the amended scheme is now between 1 metre to 2.9 metres higher than the ridge height of the approved scheme, depending on the point of the terrace the measurement is taken from. (The largest height increase is only for a very short length of the terrace).

The average height increase along the whole width of the terrace is approximately 2 metres. On the elevation facing towards Princes Road properties this increase in ridge height is between 0.8 metres and 2.6 metres. (Again the largest height increase is only for a small section of the overall width of the terrace).

In longer views into the conservation area from the north, this increase in height is not significantly more harmful to the conservation area than the approved scheme. The change of materials and bulk at the upper floor is considered to result in a more appropriate scheme that would not appear at contrast to the existing dwellings at Princes Road and is considered to have addressed the Inspector's and LPAs concerns regarding the design of the scheme for 8 dwellings (BH2007/04444).

The removal of the dormers on the rear elevation has resulted in more of a blank façade above the upper ground floor windows. However, the benefits in design terms of achieving a continuous eaves line and removing the additional bulk of the dormers, is considered to outweigh the negative impact of the larger area of blank façade, as it is the roof of the terrace which is more prominent in longer views.

The area proposed for landscaping is similar to that which was approved under BH2009/00847. The Council's Urban Design Officer has given advice regarding possible tree species which could be planted along the railway line boundary. Trees need to be semi-mature so they are effective at screening and preferably evergreen, due to issues regarding leaves falling on the track and maintenance implications.

The embankment would be set 1.5 metres higher than the garden level in the north eastern corner which would rise to being just over 3 metres in the north western corner. The gardens themselves would rise up at staggered points 4.5 metres from east to west.

The preferred option for landscaping would be a crib wall on the rear boundary which would be set back to allow for various terraces, and would allow for planting at the top in the form of a native shrub hedge. Trees would not be possible in this location due to the limited area available for the root systems and the close proximity to the railway line which could result in pressure for their removal by Network Rail. However, if not pruned back the hedgerow at the top of the embankment could grow to a significant height.

Appropriate trees to be planted at the garden level are semi-mature Scottish pine which should be available for planting at heights of 1.2 – 1.5 metres and silver birch (deciduous but have lighter canopies) which are available at a height of 0.9 – 1.2 metres height. Scottish pines have the advantage of being able to be pruned at the bottom as to still let light through to the ground floor windows, but can achieve a greater foliage at a higher level.

The Council's Urban Design Officer has also commented that due to the prevalence of south westerly winds and risk of trees falling onto railway land, there should be no trees planted at the garden level of the 2 dwellings located behind Nos. 67 and 71 Princes Road. This is considered acceptable in terms of screening issues, as this is the point where the embankment is at its highest level above the gardens, so tree planting in this location has less of an impact, and as the proposed dwellings to the east are more prominent in longer views into the conservation area than the dwellings to the west.

The applicant has agreed to submit a landscaping scheme prior to Planning Committee, which incorporates all of these appropriate landscaping details. The exact wording of conditions to require the landscaping implementation and 5 year maintenance will therefore be reported to Planning Committee.

It is considered that shorter views of the scheme from public places are restricted and in longer views the scheme will not appear as materially different to that which was approved under BH2009/00847. It is therefore considered that the scheme, in terms of design, scale and layout and impact on longer views into the conservation area, is appropriate and would not be detrimental to these longer views.

Gatehouse

The gatehouse has been designed to appear as an extension to the existing terrace with detailing to match that of number 81 to which it is adjoined which is considered acceptable. A number of changes were made to the gatehouse design following the refusal of BH2007/04444. The roof design was amended to provide a hip to the rear and the front boundary was redesigned to provide a traditionally proportioned brick boundary wall rather than a timber fence as

originally proposed. The detail of the doorway opening within the 'gatehouse', which is to be timber, is recommended to be requested by condition. The off street parking space to the front of number 81 Princes Road was also removed. The gatehouse design is identical to that approved under BH2009/00847 and is considered to be acceptable in terms of the impact on the character and appearance of the street scene and conservation area.

Impact on amenity of surrounding residents

Policy QD27 of the Local Plan requires new development to respect the existing amenity of neighbouring properties.

The proposed scheme would be dug into the site and set at a lower level than the properties adjacent on Princes Road. The living room windows at the lower ground floor would look out onto the sunken patios. At the upper ground there is a bedroom window and staircase window on each dwelling, which due to the levels would face towards the rear boundary fences of properties on Princes Road. At the first floor are bedroom windows which face towards the rear of properties on Princes Road. The interface distance between the first floor and upper ground windows and the rear of properties on Princes Road would be between 18.5 and 19.5 metres. The approved scheme for 4 dwellings (BH2009/00847) has a similar interface distance of between 19m and 19.5 metres between the upper ground floor windows and the rear elevations of Princes Road properties.

Due to the difference in levels on the site it is only the upper floors which would look towards the rear of Princes Road, with only the bedroom windows likely to have a slight view over the boundary treatment to the gardens. It is not considered that these windows would cause significant overlooking which would warrant a refusal on loss of privacy grounds, especially given that the Inspector concluded that the scheme for 8 dwellings would not adversely impact on the living conditions of existing residents at Princes Road.

When the application for 8 dwellings (BH2007/04444) was refused the interface distance was a minimum of 20 metres.

This current scheme is 3.5 metres lower than the tallest section of the three storey scheme for 8 dwellings (BH2007/04444). As part of the 2007 scheme was two storeys in the middle, there is a small section of this current scheme that would be 0.65 metres higher. However, it is considered that the scheme would not be overbearing and would not result in adverse overlooking and loss of privacy to properties on Princes Road. Whilst it is noted that the interface distances were slightly more for the 2007 scheme (0.5 – 1.5 metres), the 2007 scheme was significantly taller than the scheme currently proposed for most of its length. In dismissing the previous appeal the Inspector did not consider that the scheme would adversely impact on the living conditions of Princes Road residents, and it is considered that this current scheme would also not have an adverse impact in terms of loss of light, outlook, overlooking and loss of privacy or by its over-bearing impact.

Standard of accommodation to be provided

Local Plan policy QD27 requires that new residential development provides suitable living conditions for future occupiers. The proposed dwellings are considered to provide an acceptable layout in respect of natural light and ventilation and adequate outlook. It is considered that the patios would not be overlooked as they are sunken, and therefore the previous concerns of the LPA and the Inspector with regard to the overlooking and poor privacy levels for future occupiers of the scheme have been addressed.

Policy HO5 requires all new residential units to have private useable amenity space appropriate to the scale and character of the development and QD2 relates to key principles of neighbourhoods. Each unit has provision of a sunken patio to the south east/front of the property and a private rear garden, in addition there are small shared spaces to the front of the terrace.

When the previous application for 4 dwellings was approved (BH2009/00847), the smallest of the rear gardens was approximately 50sqm. As an additional 2 units are now proposed, the garden areas have subsequently been made smaller. The smallest gardens are now approximately 27.5sqm. This is compared with approximately 30sqm at number 67 Princes Road and approximately 41sqm at number 79 Princes Road. Whilst the reduction in garden size is regrettable, it is noted that each dwelling also has a patio. On balance, it is considered that the provision of private amenity space is considered acceptable in this location for the form of development proposed.

Policy HO13 requires residential units to be lifetime homes compliant, new residential dwellings should fully comply with the standards; the Council's Access Consultant has been consulted in this respect. A lift is to be installed within the 'gatehouse' extension to facilitate access to the main site in addition to a long flight of external stairs.

Due to the significant variation in site levels and in consultation with the Access Consultant the applicant has resolved to provide ramped access and ambulant steps. Three of the six proposed houses have sloping access with the other three houses having access via ambulant steps. Due to the ambulant steps these three dwellings would not fully meet Lifetime Homes Standards.

The issue could be overcome by levelling the site or providing a second lift, both options would present an additional cost and the levelling of the site would also alter the stepping down of the terrace altering the character in conflict with advice from Conservation and Design. It is considered that due to the unique character of the site and subsequent access issues the use of ambulant stairs is an acceptable compromise.

This compromise was accepted when the application for 4 dwellings was approved where two units had sloped access and were fully Lifetime Home compliant. One unit was accessed via two short sets of ambulant steps and

the fourth unit via another longer set of ambulant steps and therefore these two units were not fully compliant in this respect. In addition to this four out of the eight units proposed under BH2007/04444 were accessed via ambulant stairs and no objection was raised on these grounds. A condition is recommended requiring the submission of details of the ambulant stairs and handrails to ensure they are of an acceptable access standard.

With regard to the internal space, the reduction in size of the kitchen units makes the space tight, however, subject to the exact amount of furniture, turning circles could still be accommodated.

Noise and contaminated land issues

PPG24 states that 'the impact of noise can be a material consideration in the determination of planning applications. The planning system has the task of guiding development to the most appropriate locations. It will be hard to reconcile some land uses, such as housing, hospitals or schools, with other activities which generate high levels of noise, but the planning system should ensure that, wherever practicable, noise-sensitive developments are separated from major sources of noise (such as road, rail and air transport and certain types of industrial development). Where it is not possible to achieve such a separation of land uses, local planning authorities should consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions or planning obligations.'

Policy SU10 of the Local Plan relates to noise nuisance and states that planning permission for noise-sensitive development, such as housing will not be granted if its users would be affected adversely by noise from existing uses that generate significant levels of noise.

The application site abuts the railway line to the north and beyond that is the Hollingdean Waste Transfer Site both of these uses could adversely impact on the living conditions of the residential dwellings and a noise survey has been submitted to demonstrate what impact they could have on the proposed development.

When the previous application was approved conditions were imposed to ensure an adequate level of protection to bedrooms against night time external noise, which could have included passive acoustic ventilation such as acoustic airbricks or trickle ventilation incorporated into the glazing design or whole house ventilation systems, with a minimum acoustic specification of 35 dB n,e,w recommended.

As part of this current application, the Council's Environmental Health Officer has requested an additional Noise Assessment as concerns were raised regarding the master bedrooms at the upper floor. The following two paragraphs from the additional Noise Assessment regarding the master bedrooms are relevant.

“The calculations have shown that with the standard thermal double glazing, a good internal noise environment should be achieved inside bedrooms fronting the railway line. However with the windows partially open, the internal noise level increases above that considered reasonable in accordance with BS8233, which is the British Standard. It is further noted that the night time guideline level of 45dB could be exceeded with the windows partially open.”

“To ensure adequate protection against external noise it is therefore recommended that the new proposed master bedrooms on the second floor be fitted with at least standard thermal double glazing and a ventilation system so that the bedroom windows can remain closed if required by the future residents.”

Since the additional Noise Assessment was submitted, the scheme has been amended and the dormer windows of the master bedroom have been replaced with conservation style roof-lights. However, there will still be the need for some noise mitigation measures as highlighted within the Noise Assessments. However, it is considered that the exact details of the mitigation measures can be adequately secured through a condition without putting the living conditions of future residents at risk.

PPS23 states that Local Planning Authorities should pay particular attention to development proposals for sites where there is a reason to suspect contamination, such as the existence of former industrial uses, or other indications of potential contamination, and to those for particularly sensitive use such as a day nursery or housing likely to be used by families with children. In such cases, the Local Planning Authority should normally require at least a desk study of the readily-available records assessing the previous uses of the site and their potential for contamination in relation to the proposed development. If the potential for contamination is confirmed, further studies by the developer to assess the risks and identify and appraise the options for remediation should be required.

Policy SU11 will permit the development of known or suspected polluted land where the application is accompanied by a site assessment and detailed proposals for the treatment, containments an/or removal of the source of contamination, appropriate to the proposed future use and surrounding land uses and to prevent leaching of pollutants. Permission will not be granted for the development of polluted land where the nature and extent of contamination is such that even with current methods of remediation as a result of the proposed development people, animals and/or the surrounding environment would be put at risk. Where the suspected contamination is not felt to be significant or not high risk, permission may be granted subject to conditions requiring a site investigation and any necessary remedial measures.

The site is identified in records as having previous uses that may have resulted in contamination. Brighton & Hove Local Plan policy SU11 requires

applications to demonstrate existing levels of contamination and site remediation where necessary.

The report concludes that the site is subject to existing contamination (with elevated levels of lead and polynuclear aromatic hydrocarbons) and accordingly, were the recommendation for approval, conditions could be imposed to require further investigative work and details of remediation.

It is also noted that the report indicates further investigation is necessary in relation to groundwater through the site and contamination.

Sustainable Transport

Brighton & Hove Local Plan policy TR1 requires that new development addresses the travel demand arising from the proposal. Policy TR7 requires that new development does not increase the danger to users of adjacent pavements, cycle routes and roads. Policy TR14 requires the provision of cycle parking within new development, in accordance with the Council's minimum standard, as set out in BHSPG note 4. Policy TR19 requires development to accord with the Council's maximum car parking standards, as set out in BHSPG note 4.

Policy HO7 of the Local Plan will grant permission for car free housing in accessible locations where there are complementary on street parking controls and where it can be demonstrated that the development would remain genuinely car-free over the long term.

The site is located in an area with reasonable access to public transport. Princes Road in the vicinity of the site is not subject to on street car parking controls.

Reason 3 of the refusal of 8 dwellings (BH2007/04444) related to failure to provide for the resulting travel demand which would be likely to exacerbate the existing on-street parking stress and result in the displacement of existing resident parking. The Inspector upheld this reason noting on visiting the site that the area was suffering from a degree of parking stress and suggesting that the parking survey was insufficient based on when it was undertaken and the Inspector concluded that the development would be likely to exacerbate parking stress in the area, sufficient to withhold planning permission.

After taking advice from the Council's Sustainable Transport Team, the applicant carried out a satisfactory parking beat survey that would address the Planning Inspector's concerns raised during the previous appeal. This was submitted as part of the previous application for 4 dwellings in 2009. At this time the Council's Sustainable Transport Team commented that:

'The survey was undertaken on 3rd December 2008 and 14th January 2009 at 12:00 and 20:00, which fully accords with best practice for assessing car parking demand in terms of the dates and timings considered.

'This work has shown that within a walking distance of 400m there are 674 safe and legal parking spaces.

Although the parking survey has not been updated since the previous approval, the Council's Sustainable Transport Team are still satisfied that the proposal would not result in an adverse impact on the local highway network and recommend approval subject to conditions to require on-site cycle parking and sustainable infrastructure improvements in the vicinity of the site.

12 cycle parking spaces are to be provided which is over the minimum requirement of the 8 required by SPG4 (1 space per dwelling and 1 space per visitors per 3 dwellings).

Sustainability

Policy SU2 seeks to ensure that development proposals are efficient in the use of energy, water and materials. Proposals are required to demonstrate that issues such as the use of materials and methods to minimise overall energy use have been incorporated into siting, layout and design.

SPD08 – Sustainable Building Design recommends that development on Greenfield sites achieves a Level 5 rating of the Code for Sustainable Homes.

The extant permission contained a condition to require that unless otherwise agreed in writing with the LPA, the development is required to meet a Code Level 5 rating. Numerous correspondence was exchanged between the LPA and the developer in discharging this condition. SAP reports along with a Code for Sustainable Homes pre-assessment were submitted as assessed by the Council's Sustainability Officer. It was agreed between the LPA and the developer that a Code Level 4 was an acceptable rating, with a Code Level 5 achieved for the building insulation.

Greenfield sites generally have less development costs associated with them, for example less contamination and therefore do not have costly clean up costs. However, this site is contaminated and has high costs associated with the access provision. There are a number of sustainability features of the scheme including solar panels, sedum roofs, rainwater harvesting, permeable paving and ecological enhancements. It is considered that Code Level 4 is a realistic and acceptable rating for this site and a condition to this effect is therefore recommended.

Ecology

Policy QD17 requires that existing nature conservation features outside protected sites are protected, or the impact is minimised and compensating and equivalent features are provided for any which are lost or damaged. New nature conservation features will be required as part of development schemes, and these features should be provided for early on in the design stage so that they are appropriate to the location, suitably sited and are fully integrated within the scheme. The policy states that suitable schemes where

such features have not been incorporated will be refused.

Owing to the site currently being a Greenfield site, it is of utmost importance that ecological enhancements are secured and contained within the intrinsic design of the scheme. The site previously boasted significant ecological interest prior to being cleared some time ago and has since been the victim of fly tipping.

Reason 5 of the refusal of the planning application for 8 dwellings (BH2007/04444) related to the loss of a Greenfield site which had significant ecological interest and as the applicant had failed to incorporate nature conservation mitigation and enhancement measures within the design of the proposal and as such had failed to address and mitigate the adverse impacts of the development on the nature conservation value of the site. The applicant has since amended the scheme to incorporate such measures which has been facilitated in part by the reduction in footprint on the site.

Nature conservation and enhancement measures have been recommended which include a wildlife pond, sedum roofs and green walls. The Council's Ecologist has raised no objection in principle however has recommended that a condition be imposed on an approval to ensure enhancement measures proposed are successfully delivered. The condition should require the submission of a nature conservation plan for agreement in writing by the council prior to commencement of development. The plan must be produced by a qualified ecologist and should include details of the construction and maintenance of all the above nature conservation features, including materials to be used, dimensions, plant species and cross sections of the sedum roofs. The plan should also define the numbers of boxes of each type to be used (which should be manufactured from 'woodcrete' or equivalent) and their locations. The ecology improvements are to be included within the landscape condition, and therefore the exact wording of the condition will be reported via the Late List of Supplementary Information.

The green roofs have been replaced with slate at the request of the LPA. Whilst it is noted that these made a contribution towards the ecological improvements of the scheme, it is considered that in this instance the visual benefit of a slate roof would outweigh the ecological benefits of the green roofs. In other aspects, the scheme is very similar in terms of ecological measures to that of the extant permission.

Adjacent to the entrance of the site is a mature Chestnut tree which is protected under a Tree Preservation Order. Objections have been raised in the past regarding the potentially harmful impact of developing this site on the health of the tree. The Inspector noted in his decision that the tree makes a significant contribution to the street scene however he considered that a planning condition together with other protection measures would safeguard the tree. As such the Council's Arboriculturalist considers that an objection on these grounds could not be sustained and has recommended protection

measures be secured by condition in order to ensure the protection of the tree as well as a replacement planting scheme to compensate for the loss of trees on the site as a result of clearance.

These conditions were included previously as part of the approval for 4 dwellings (BH2009/00847).

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposal would provide the City with six dwellings each with private amenity space. The scheme is of an acceptable design which would not harm the character or appearance of the conservation area and includes ecological and landscape enhancements. The development will not cause demonstrable harm to the residential amenity of neighbouring dwellings and with the imposition of conditions to control the scheme in detail, it accords with the Development Plan.

9 EQUALITIES IMPLICATIONS

The dwellings are not fully Lifetime Homes Standard compliant.

BH2010/00083 Land rear of 67 to 81 Princes Road**Appendix 1: Representation lists****Individual objection letters received from:**

Beechwood Close	9
Cornwall Gardens	5
Crescent Road	31
D'Aubigny Road	1, 3, 8 (2)
Florence Road	Flat 3 22
Hollingdean Terrace	197
Lauriston Road	30 (2)
Princes Crescent	29
Princes Road	22, 26, 30, 32, 36, 43 (2), 49, 50 (2), 54, 55, 57, 59 (2), 76
Richmond Road	6 (2), 14, 58 (2), 62
Roundhill Crescent	30, 34, 78a
Rugby Road	18c, 20
Upper Lewes Road	51
Wakefield Road	6, 7a, 11
Mayo Road	11a
Mount Harry Road, Lewes	6

Total: 45

Standard letters of objection received from:

Ashdown Road	5, 6, 7
Belton Road	5, 17, 40
Crescent Road	3, 5, 9, 16, 24, 33, 47, 51, 66
Davey Drive	49, 55, 72, 79, 107
D'Aubigny Road	3, 4, 5b
Ditchling Road	70, 80, 86a, 104, 108
Mayo Road	Flats 5, 11, 14, 20 Mayo Court, 3, 14 Mayo Road
Princes Crescent	3, 39, 49, 55, 57, 61, 75, 77, 93
Princes Road	5, 10, 14, 16, 25, 26, 31, 34, 36b, 36c, 39, 41, 42, 43, 48, 1 (2) and 2 The Copse 50 – 58, 51, 53, 54, 56, 57, 60, 61, 62, 63a, 65, 72, 74
Roundhill Close	Flat 4 19
Roundhill Crescent	1, 27, 36, 47, 53, 81, 83, 87, 103a, flats 1 and 4 107
Roundhill Road	Flat 3 1a, 110
Richmond Road	7, 7a, 9a, 11a, 18, flat 8 21 – 23, 14, 26, 29, 37, 41, 56, 56a, 66, 80, 98, 100
Selbourne Road	Flat 5 24
Springfield Road	156
Wakefield Road	6, 14, 16a, 28
Upper Lewes Road	29, 33, 44

Total: 114

Additional comments attached to standard letters of objection received from:

Mayo Road	1
Richmond Road	27, 73
Princes Road	2, 69

Total: 5

Individual letter of objection received following consultation regarding amended plans:

Princes Road	38, 56, 74, 76
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Total: 4

Individual letters of support received from:

Edburton Road	36
Princes Crescent	23
Cowley Drive	216
Purbeck Cottages, Action, Dorset	3

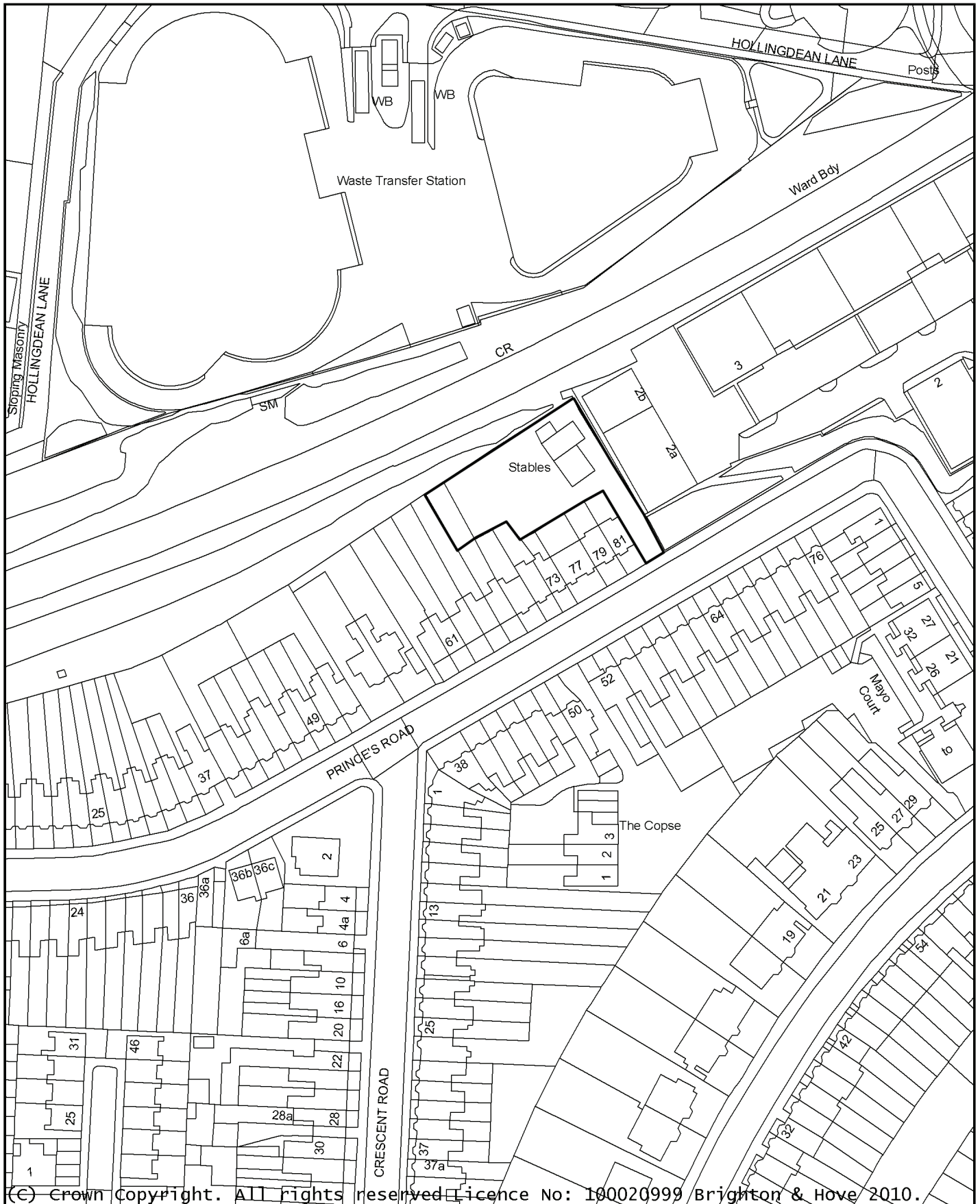
Total: 4

Standard letters of support received from:

Princes Road	67
Ditchling Road	132
Friar Crescent	41
Gableston Avenue	17
Norwich Drive	79a
Osbourne Road	87
Purbeck Cottages, Acton, Swanage, Dorset	3

Total: 7

BH2010/00083 Land to the rear of 67-81 Princes Road



Date: 04/05/2010 01:56:53

Scale 1:1250



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No:	BH2010/00931	Ward:	NORTH PORTSLADE
App Type:	Extension to Time Limit Full Planning		
Address:	8 Hazel Close, Portslade		
Proposal:	Application to extend the time limit for implementation of previous approval BH2005/00833/FP for erection of a two bedroom attached house.		
Officer:	Adrian Smith, tel: 01273 290478	Valid Date:	24/03/2010
Con Area:	N/A	Expiry Date:	19 May 2010
Agent:	PLANS, 20 Sutton Park Road, Seaford		
Applicant:	Mr K Pryke, The Cottage, Lustrells Road, Rottingdean		

Councillor Trevor Alford has requested that this application is determined by the Planning Committee.

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. BH01.01 Full Planning.
2. BH02.01 No Permitted Development (extensions) (amenity).
3. BH02.04 No Permitted Development (windows and doors).
4. BH02.08 Satisfactory Refuse and Recycling Storage.
5. BH03.03 Materials to Match Non-Cons Area.
6. BH04.01A Lifetimes Homes
7. BH05.01B Code for Sustainable Homes – Pre-Commencement (New Build Residential).
8. BH05.02B Code for Sustainable Homes – Pre- Occupation (New Build Residential).
9. BH05.08A Waste Minimisation Statement (1-2 Housing Units- new build)
10. BH06.02 Cycle Parking Details to be submitted.
11. The existing trees shall be protected to BS5837 (trees in relation to construction sites) standards.

Reason: In order to protect the trees at the application site and to comply with policy QD16 of the Brighton & Hove Local Plan.

12. One replacement tree shall be provided within the property curtilage, sited in accordance with full details that shall be submitted to and approved in writing by the local planning authority before the development commences. The tree shall thereafter be planted in accordance with the agreed details within the first planting season following substantial completion of the dwelling.

Reason: To secure adequate replacement trees to be lost as a result of the development and to comply with policy QD16 of the Brighton & Hove

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Local Plan.

Informatives:

1. This decision is based on drawing no. B submitted on the 24th March 2010; and the sustainability checklist submitted on the 14th May 2010.
2. This decision to grant Planning Permission has been taken:

- (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:

Brighton & Hove Local Plan:

SU2	Efficiency of development in the use of energy, water and materials
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of design
QD2	Design – key principles for neighbourhoods
QD3	Design – effective and efficient use of sites
QD4	Design – strategic impact
QD5	Design – street frontages
QD16	Trees and hedgerows
QD27	Protection of amenity
QD28	Planning obligations
TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
HO3	Dwelling type and size
HO4	Dwelling densities
HO6	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes.

Supplementary Planning Guidance Notes:

SPGBH14: Parking standards

Supplementary Planning Documents:

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design

Planning Advice Notes:

PAN03: Accessible housing and lifetime homes; and

- (ii) for the following reasons:-

The principle of the development has been accepted under BH2005/00833/FP and the site has not significantly changed since permission was granted in 2005. There have been some changes in the development plan relating to sustainability and highway/parking which did not apply in 2005 however these issues can be controlled by suitably worded conditions. The development remains acceptable.

3. IN04.01 Informative- Lifetime Homes.

4. IN05.02A Informative- Code for Sustainable Homes.
5. IN05.08A Informative- Waste Minimisation Statements.

2 THE SITE

The application site relates to the side garden of a two storey end of terrace property in Hazel Close. To the north of the site there is a terrace of six houses and to the east of the site a parking area with designated parking attached to each house.

3 RELEVANT HISTORY

BH2005/00833/FP: Two bedroom attached house. The application was approved on the 23rd May 2005 subject to the following conditions:

1. 01.01 Full planning.
2. 02.01C No Permitted Development (extensions) (H).
3. 02.02C No Permitted Development (windows) (H).
4. 02.06C Satisfactory Refuse Storage (H).
5. 03.02C Materials to Match Non-Conservation Areas (H).
6. 06.02C Cycle Parking Details to be submitted (H).
7. The new building shall be constructed to an ecohomes “very good” or “excellent” specification.
Reason: To comply with policy SU2 of the Brighton & Hove Local Plan Second Deposit Draft.
8. The building shall meet Lifetime Homes specification.
Reason: To comply with policy HO13 of the Brighton & Hove Local Plan Second Deposit Draft.
9. The existing trees shall be protected to BS5837 (trees in relation to construction sites) standards. Reason: In order to protect the trees at the application site and to comply with policies BE40 of the Hove Borough local plan and QD16 of the Brighton & Hove Local Plan Second Deposit Draft.
10. One replacement tree shall be provided within the property curtilage, sited in accordance with the full details that shall be submitted to and approved in writing by the local planning authority before the development commences. The tree shall thereafter be planted in accordance with the agreed details within the first planting season following substantial completion of the dwelling.
Reason: To secure adequate replacement trees to be lost as a result of the development and to comply with policies BE40 of the Hove Borough local plan and QD16 of the Brighton & Hove Local Plan Second Deposit Draft.

BH2004/02723/OA: Outline planning permission was granted in November 2004 for the construction of a new house adjacent to no. 8 Hazel Close. Approved 05/11/2004.

4 THE APPLICATION

The application seeks planning permission to extend the time limit for the

implementation of the scheme approved under BH2005/00833/FP, which was subject to a five year permission that expired on the 23rd May 2010. This application to extend the time limit for implementation was received on the 24th March 2010 whilst the existing permission was still extant.

5 CONSULTATIONS

External:

Neighbours: Six letters of representation have been received from the residents of **Nos 32, 33, 34, 35 & 36 Juniper Close**, objecting to the proposed development on the following grounds:

- The proposed building will impact greatly on outlook and block light to the front of houses on Juniper Close, boxing them in and causing overshadowing.
- The outlook to the houses on Juniper Close will be towards a brick wall approximately 3-4 metres away, blocking light, sunlight and outlook.
- The proposed house will result in added parking pressure as there will be no allocated parking space.
- The proximity of the house to the adjacent terrace will result in noise and general disturbance. Also construction dust, noise and disturbance.
- The house will result in direct overlooking of bedrooms.
- The proposed house is not in keeping with the other new houses in the area owing to its position adjacent to a footpath and close proximity to other houses.

Councillor Alford objects to the proposal (copy of email attached).

Internal:

Sustainable Transport: We would not wish to restrict grant of consent of this Planning Application. Subject to the inclusion of the following conditions;

1. The development shall not be occupied until cycle parking areas have been provided in accordance with the approved plans or details which have been submitted to and approved in writing by the Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles. Reason: In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development.
2. The Applicant enters into a legal agreement with the Council to contribute £1500 towards improving accessibility to bus stops, pedestrian facilities, and cycling infrastructure in the area of the site. Reason: In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

SU2	Efficiency of development in the use of energy, water and materials
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of design

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QD2	Design – key principles for neighbourhoods
QD3	Design – effective and efficient use of sites
QD4	Design – strategic impact
QD5	Design – street frontages
QD16	Trees and hedgerows
QD27	Protection of amenity
QD28	Planning obligations
TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
HO3	Dwelling type and size
HO4	Dwelling densities
HO6	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes

Supplementary Planning Guidance Notes:

SPGBH14: Parking standards

Supplementary Planning Documents:

SPD03: Construction and Demolition Waste

SPD08: Sustainable Building Design

Planning Advice Notes:

PAN03: Accessible housing and lifetime homes

7 CONSIDERATIONS

The development proposed in this application for extension to the time limit for implementation has already been judged to be acceptable in principle at an earlier date. The extant consent expired on the 23rd May 2010, after the application was submitted on the 24th March 2010. The determining issues to consider relate to whether there have been any material changes to the site since planning permission was initially granted, or whether there have been any changes in local and national policy that would now render the proposed development unacceptable.

A site visit has revealed that there have been no material changes to the site since the grant of the previous permission. Therefore issues relating to the design and appearance of the development, the impacts on the amenities of neighbouring occupiers, and landscaping remain identical to the previous application. There have been no significant changes in local or national policy that would affect these issues and the same planning conditions can be applied to ensure the development remains acceptable on these issues.

Sustainability

The Local Plan Policy on Sustainability, Policy SU2, is now supplemented by an adopted Supplementary Planning Document on Sustainability Building Design (SPD08). This was adopted in 2008 and was not a material

consideration when determining BH2005/00833/FP. The extension to the time scale for this permission must now be assessed under the new adopted guidance. The above SPD08 requires all new build residential developments such as this to submit a completed Sustainability Checklist and to achieve Level 3 of the Code for Sustainable Homes.

A Sustainability Checklist has been submitted that demonstrates that the new building would achieve an overall rating of “Good” which is acceptable for a development of this nature. The requirement to achieve Level 3 of the Code for Sustainable Homes has now been adopted for all new developments of two or fewer residential units. This is a change from the previous requirement to meet an ecohomes “very good” or “excellent” specification, as attached by condition to the previous permission. The standard approach to securing this Code Level 3 rating is to impose a pre-commencement condition and a post occupation condition to any planning permission granted and this is recommended accordingly.

In addition to the above, policy SU13 in conjunction with SPD03 ‘Construction and Demolition Waste’ requires a waste minimisation statement to be submitted for all new dwellings up to 3 units. This was not a requirement at the time of the earlier permission however this can be addressed via the application of a suitably worded condition.

Scale of development and impact on residential amenity

Policies QD1, QD2, QD4 and QD5 of the Brighton & Hove Local Plan state that all new development will be expected to demonstrate a high standard of design and should make a positive contribution to the environment, taking into account local characteristics including the height, scale, bulk and design of existing buildings. Comparing site photographs submitted with the original approval the site and surrounds have not altered. No development has taken place in the immediate locality of the site that would render the proposed design and appearance of the additional dwelling obsolete.

Policy QD27 of the Brighton & Hove Local Plan seeks to protect residential amenity from significant harm from proposed development. As per the previous application, a number of representations have been received from local residents concerned over the potential impact of the proposed dwelling on their outlook, light and general amenity. As stated above, no changes have occurred to the site or surrounds since planning permission was originally granted therefore the impacts of the proposed development on the amenities of neighbouring occupiers remain the same now as in 2005. The adopted development plan policies relating to residential amenity have not significantly altered in the interim period. Although the Brighton & Hove Local Plan was operating as an unadopted second deposit draft in May 2005, it still carried significant weight alongside the Hove Borough Local Plan in the determination of planning applications, it would be unreasonable and unsupportable to refuse planning permission for this application on this basis.

Policy QD16 of the Brighton & Hove Local Plan states that applications for new development must seek to protect and retain existing trees during construction works in accordance with the current British Standard 5837 'Trees in relation to Construction'. In accordance with the previous permission, conditions are recommended to ensure that the existing trees in and adjacent to the site are protected during the course of development, whilst a further condition is replicated to ensure that a new tree is planted to replace one which will be lost to enable works.

Highways and parking issues:

Policy TR1 of the Brighton & Hove Local Plan states that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking, and cycling, whilst policy TR7 requires new developments to provide appropriate secure and covered bicycle parking facilities. In the interim period between applications, the transport officers have adopted an alternative approach to that which was being used at the time the extant permission was granted. To this effect the Council's transport officers have raised no objection to this scheme, subject to the securing of a cycle storage facility and the completion of a S106 agreement for a contribution towards sustainable transport infrastructure in the area (NB no such contribution was required for the initial permission). The scale of contribution is based on the predicted level of the funding shortfall in current LTP and the person-trip generation of the housing and business allocations set out in the Council's adopted Local Plan. This would equate to securing improvements to the value of £1,500 and these improvements may be secured by the imposition of a suitably worded condition. However, the threshold by which contributions are current sought for transport contributions is set at five residential units. On this basis, a condition requesting the above contribution is not recommended.

Local residents have raised concern over the impact of the proposed dwelling on parking levels within the area however this issue was addressed during the initial permission, in accordance with the Supplementary Planning Guidance 14 'Parking Standards' (which is still the adopted document on this matter) and no significant harm was indentified. The refusal of this application on this basis would therefore be unreasonable and unwarranted.

Conclusion:

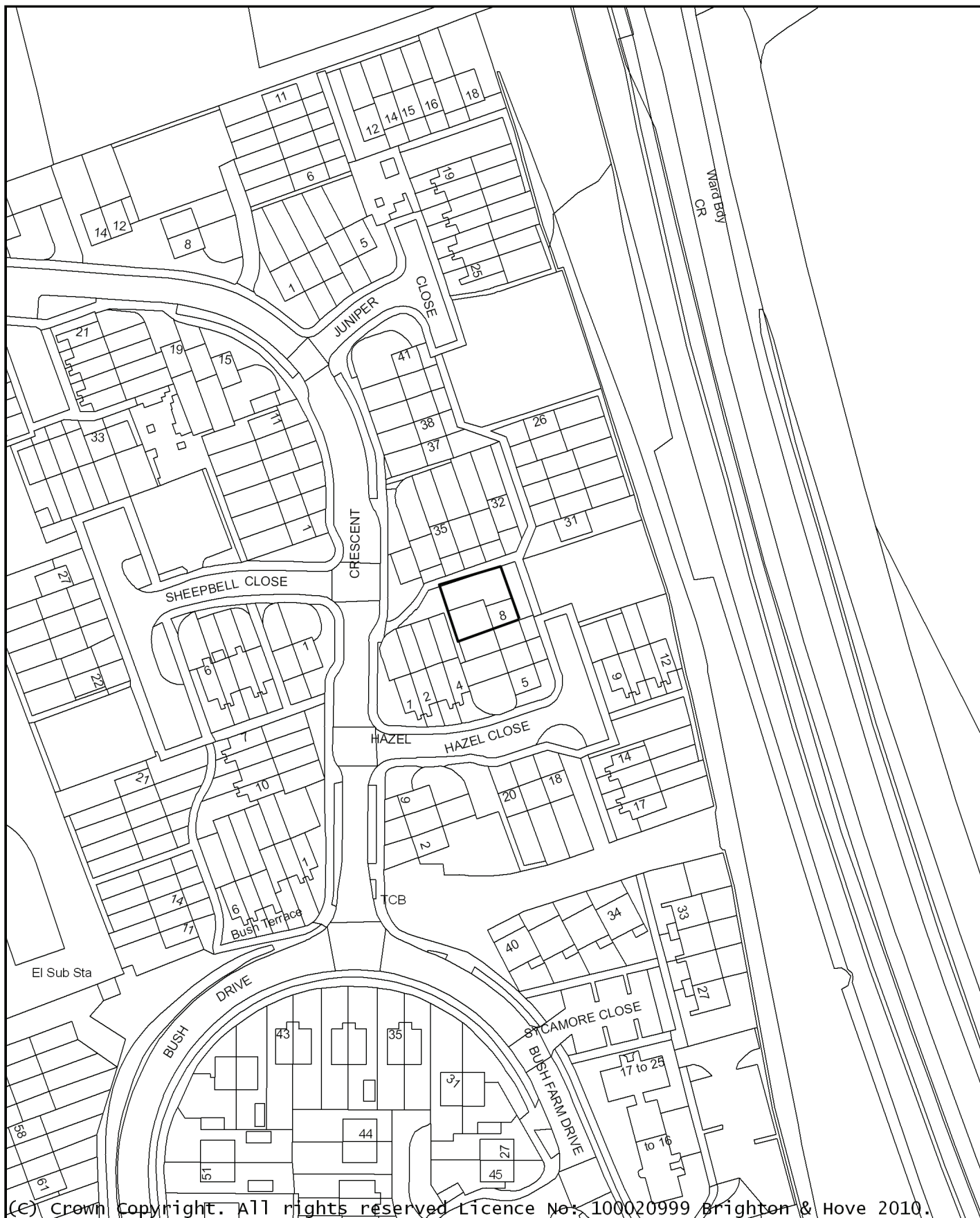
The principle of the development has been accepted under BH2005/00833/FP and there have been no subsequent alterations to the site or surrounds. In the interim period there have been some changes in the development plan relating to sustainability which can be addressed by suitably worded conditions. Subject to the addition of these conditions, the approval of planning permission for the extension of time for this development is recommended.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The principle of the development has been accepted under BH2005/00833/FP and the site has not significantly changed since permission was granted in 2005. There have been some changes in the development plan relating to sustainability and highway/parking which did not apply in 2005 however these issues can be controlled by suitably worded conditions. The development remains acceptable.

9 EQUALITIES IMPLICATIONS

Subject to condition, the proposed dwelling would meet Lifetime Homes standards.



Date: 25/05/2010 01:57:33

Scale 1:1250



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**Brighton & Hove
City Council**

PLANS LIST – 09 JUNE 2010

COUNCILLOR REPRESENTATION

From: Trevor Alford [mailto:Trevor.Alford@brighton-hove.gov.uk]

Sent: 05 May 2010 21:40

To: Nicola Hurley

Given the circumstances, which after viewing the site and evaluating the dimensions of the location, I believe amounts to overdensification, I will be objecting to the application.

Could I ask that you refer this e-mail relating to Planning Application - BH2010/00931 to the appropriate officer who is dealing with this issue. I would like to formally request that this is referred to committee and NOT allocated to officers to approve under delegated powers.

Rgds

Trevor

Trevor Alford
Conservative councillor for North Portslade
Brighton and Hove city council
Tel: (01273) 296432
Blackberry: 07825 387384
trevor.alford@brighton-hove.gov.uk

<u>No:</u>	BH2009/02428	<u>Ward:</u>	SOUTH PORTSLADE
<u>App Type</u>	Full Planning		
<u>Address:</u>	Land to rear of 197 Old Shoreham Road, Portslade		
<u>Proposal:</u>	Erection of 1 No. 2 storey building comprising 1 No. 2 bedroom Maisonette and 2 No. 1 bedroom flats and associated cycle spaces, access road, footways and landscaping. (3 residential units).		
<u>Officer:</u>	Christopher Wright,	Tel:	<u>Received Date:</u> 07 October 2009 292097
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	04 January 2010
<u>Agent:</u>	Graham Johnson Designs, 37A Portland Road, Hove		
<u>Applicant:</u>	Mr Peter Bradford, 16 Withdean Road, Brighton		

1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation and resolves to **REFUSE** planning permission for the following Reasons:

1. By reason of the scale, bulk, form, site coverage, limited space around the building, design and prominent park side location, the application constitutes over development of the site and would have a cramped and discordant appearance, being detrimental to visual amenity and failing to enhance the character of the local area. As such the application is contrary to the aims and objectives of policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan.
2. In accordance with the requirements of policies QD15 and QD16 of the Brighton & Hove Local Plan, proposals for new development should show that adequate consideration has been given to landscape design, including all the spaces between and around buildings, at an early stage in the design process; and ensure existing trees, shrubs and hedgerows are identified and retained where possible and a scheme for new tree and hedge planting is incorporated into the development. The application has not been submitted with either a tree survey or a landscaping scheme and it is considered that the retention of existing trees and the design of a landscaping scheme has not been given due consideration. It is clear from the application that the development would have an adverse impact on existing trees. As such the application is contrary to the requirements of the above policies.
3. The amount of off-street parking for private motor vehicles does not accord with the levels set out in the council's SPGBH4: Parking standards, and as such the development would not provide for the travel demand it would generate, contrary to the requirements of policies TR1 and TR19 of the Brighton & Hove Local Plan.
4. The application site is neither situated in a central area nor within a

controlled parking zone and the applicant has not demonstrated that the proposed development would remain genuinely car free in the long term. The local planning authority would not be able to ensure future inhabitants of the development do not own cars and as such the scheme conflicts with policy HO7 of the Brighton & Hove Local Plan and would lead to overflow parking in nearby residential streets, to the detriment of residential amenity and potentially highway safety. In these respects the application does not comply with policies QD27 or TR7 of the Brighton & Hove Local Plan.

Informative:

1. This decision is based on the design and access statement; waste minimisation statement; biodiversity checklist; sustainability checklist; copy of email; and drawing nos. 25546/2C, 25546/3B, 25546/4 and 25546/6A submitted on 7 October 2009; and drawing no. 25546/7 submitted on 9 November 2009.

2 THE SITE

The application relates to a plot of land to the rear of 197 and 199 Old Shoreham Road, a pair of two storey semi-detached properties; No.197 having been converted into two flats. The site is separate from the rear gardens of the existing properties and would be accessed along a 2.7m wide pedestrian pathway (presently a driveway) shared with the occupiers of the ground floor flat of No.197. The plot measures 18.0m x 17.0m at its widest and longest points, giving a site area, excluding the narrow access route, of approximately 306 square metres.

The rear garden of 197 has a drop of 0.7m at which point the plot begins and the downward gradient becomes steeper. The plot of land would be cut into the slope giving an effective ground level some 3m below the bottom end of the garden.

Adjoining land to the south forms parking to a car showroom, Portslade Library is situated to the east and Victoria Park to the west.

3 RELEVANT HISTORY

A similar application for the erection of a 2 storey block of 4 no. self contained flats was refused on 6 January 2009 (**ref. BH2008/03312**) for the reasons below:-

1. The proposal represents over development of the site and, by reason of the scale, bulk, form, site coverage, design and prominent park side location, would have a cramped and discordant appearance, both detrimental to visual amenity, failing to enhance the character of the local area and not achieving the standard of design reasonably expected by the local planning authority. As such the proposal is contrary to the requirements of policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan.
2. The amount of off-street parking for private motor vehicles and bicycles,

does not accord with the levels set out in the council's SPGBH4: Parking standards, and as such the development would not provide for the travel demand it would generate, contrary to the requirements of policies TR1 and TR19 of the Brighton & Hove Local Plan.

3. The application site is not situated in a central area or within a controlled parking zone and the applicant has not demonstrated that the proposed development would remain genuinely car free in the long term. The local planning authority would not be able to ensure future inhabitants of the development do not own cars and as such the scheme conflicts with policy HO7 of the Brighton & Hove Local Plan and would lead to overflow parking in nearby residential streets, to the detriment of residential amenity and potentially highway safety. In these respects the application does not comply with policies QD27 or TR7 of the Brighton & Hove Local Plan.

An identical proposal was refused consent on 13th September 2006 and subsequently dismissed at appeal on 9th January 2008 (ref. **BH2006/02419**). The planning application was refused for two reasons:

1. The site is situated to the rear of a property which fronts the A270, a four lane highway. Access to the site is along an existing driveway which is situated close to a pedestrian crossing. The proposal involves the closure of the driveway to vehicles. The proposed development, without off-street parking or provision for servicing, fails to provide for the demands of travel it would create, and would be detrimental to highway safety. For these reasons the proposal is contrary to policies TR1 and TR7 of the Brighton & Hove Local Plan.
2. Pedestrian access to the site is along the existing drive to the side of 197 Old Shoreham Road. It is considered that the use of the drive to serve the proposed development would result in an unacceptable level of disturbance to the occupiers of the ground floor flat of 197. For this reason the proposal is contrary to policy QD27 of the Brighton & Hove Local Plan.

The **Sustainable Transport Manager** had raised an objection to this scheme and recommended refusal, commenting as follows:

The proposal fails to provide for its travel demands and is contrary to policy TR1. The drive is too narrow to facilitate two vehicles to pass with no turning to provide for delivery vehicles to enter and leave the A270 in a forward gear. While the bollard shown on the plans is moveable to allow cycle and refuse access, it could be left out.

The traffic assessment does not provide information as to how the proposed development is to be serviced, not only by refuse collectors, but removals, deliveries etc, and has not considered the hazards of crossing the A270 at this point, an undivided four lane carriageway. Consider the proposed development will exacerbate the use of the site and will generate an increase in vehicles crossing the A270 in close

proximity of the Pelican Crossing to the detriment of highway safety. Whilst a car free status will eliminate residents' vehicles entering and leaving the site, the rest of the traffic associated with this site is unacceptable.

The Planning Inspector concluded that whilst the stopping up of the existing access and the provision of guard rails along the road curb would bring about a highway safety improvement, this would be outweighed by the consequences of providing no parking or service vehicle access to serve both the existing and proposed flats. The absence of on-site parking would add pressure for parking in surrounding streets. Due to the topography of the area and the distances involved the occupants of the proposed flats would likely not wish to carry bulky items too far and could be tempted to park illegally along the highway close to the site, adding materially to highway safety issues along Old Shoreham Road, near junctions and the pelican crossing. They might also be tempted to park illegally in the nearby library car park. In an area without on-street parking controls it would be unreasonable to require a legal agreement making the development car free and it is not a site that could be reasonably expected to comply with policy HO7 of the Local Plan, which facilitates car free housing in certain circumstances.

Prior to this application an identical proposal, less transport assessment, was submitted and refused consent on 27th March 2006 (ref. **BH2006/00150**) for the following reasons:

1. Access to the site is along the existing inadequate drive of 197 Old Shoreham Road, close to a pedestrian crossing. It is considered that further use of this drive would be detrimental to highway safety and detrimental to the amenities of the occupiers of the property. For these reasons the proposal is contrary to policies TR1, TR7 and QD27 of the Brighton & Hove Local Plan.
2. The applicant has failed to demonstrate efficiency in the use of resources and for this reason the proposal is contrary to policy SU2 of the Brighton & Hove Local Plan.

BH2004/1355/FP: New block of 5 self-contained flats. Withdrawn on 20th August 2004.

3/89/0118: Construction of two town houses on site of demolished workshop at rear of property. Refused on 7th April 1989.

3/84/247: Regularisation of use of 197 Old Shoreham Road as two flats. Granted on 18th May 1984.

3/84/0206: Outline application for erection of a single storey dwelling with garage. Refused on 18th May 1984.

4 THE APPLICATION

The application seeks full planning permission for the construction of a 2-storey building on a backland site rear of 197 and 199 Old Shoreham Road, next to Victoria Park and backing onto a car showroom in Victoria Road. The

development would provide three self contained flats – two 1-bed units and one 2-bed unit.

The building would have an essentially square footprint with recesses, balconies and a split arch shaped roof. The external finishes would include painted render and facing brick elevations with a standing seam metal panelled roof and powder coated metal framed windows and doors. The boundary would comprise matching facing brick and close boarded timber fencing.

The proposed covered cycle and refuse store would feature a glass panelled roof.

The development also proposes direct access to Victoria Park.

This is a revised application following the refusal of application BH2008/03312 on 6 January 2009. There is a reduction in the number of units proposed compared to the previous application, which proposed three 2-bed flats and one 1-bed flat.

The applicant has submitted standard letters from neighbouring residents supporting the application, 58 of which have been returned under cover of a letter from the applicant's agent dated 26 November 2009 (Appendix A). The letters support the application for the reasons that the development will result in the stopping up of the vehicular access and therefore improve the safety of pedestrians using the Pelican crossing.

5 CONSULTATIONS

External:

Neighbours: An individual letter in support of the application has been submitted from **76 Foredown Drive**, commenting as follows:-

- As the only additional parking is for 4 bicycles then the proposed guardrail across the 'driveway' is no problem – unless the application has an ulterior motive of intending to introduce car parking at a later date.
- It would be best to keep the guardrail and let the applicant's tenants cycle around it.

Twenty-eight copies of a standard letter, the same submitted under cover of the agent's letter but submitted directly to the Council, have been received from **19 Benfield Crescent; 18, 21, 28, 32, 33, 35, 50, 66, 67, 74, 79, 82, 86, 95, 101, 104 Foredown Drive; 15, 30, 35, 42, 44 Highlands Road; 5, 6 Victoria Park Gardens; 220, 227 Old Shoreham Road; and Flats 1 & 6, Burgess Court, Horizon Close** in support of the application because the development will result in the stopping up of the vehicular access and therefore improve the safety of pedestrians using the Pelican crossing.

Six representations have been received from **Top Floor Flat 197 Old Shoreham Road; and 20, 34, 47, no address given (x 2), Foredown Drive,**

objecting to the application for reasons including:-

- The crossing should not be moved. It is in the right place for the schools and parks etc.
- Motorists show contempt for any pedestrian using the crossing.
- Lack of parking will worsen parking congestion in Foredown Drive.
- The two storey building will overshadow the bedroom and bathroom of the flat above 197 Old Shoreham Road and the views from it. These windows are the main source of sunlight and natural light into the property. More electricity would need to be used to replace the lost natural light and heating.
- Harm to neighbour amenity.
- Adverse impact on neighbouring property values.
- There are parking problems at the bottom of Foredown Drive which would be exacerbated by the proposal.
- Parking enforcement should look into the parking breaches regularly occurring at the bottom of Foredown Drive.
- Previous similar applications have rightly been refused.
- The letter sent to residents by the applicant does not give details of the full planning application.
- The crossing has been in this location for over 40 years and should stay where it is.
- This application is for greed so that more houses and flats can be squeezed into an already squashed area.

Internal:

Sustainable Transport: No objection.

A previous appeal was dismissed by an Inspector on the basis that the application would have had a negative impact on highway safety. In the view of the council's Sustainable Transport Manager this is incorrect and whilst the loss of the existing off street parking facilities would add to the on street parking demand, this would not outweigh the benefits to highway safety. The existing situation of vehicle hardstanding – without on site turning facilities – introduces a significant safety hazard on an A road, requiring the reversing of vehicles onto the highway within the zig-zag markings of the nearby crossing. Subject to regulation 27 of the statutory legal document 'Traffic Signs Regulations 2002', vehicles are prohibited from stopping within the zig-zag markings. The removal of this access will remove the need for vehicles to stop on the carriageway whilst accessing the site, eliminating the existing public safety concern.

On balance it is therefore considered that the improved levels of public safety outweigh the increase in car parking demand that would be generated (2 to 4 spaces). This potential on-street parking demand is believed to be easily accommodated within the existing capacity of the local highway network at a defined reasonable walking distance of 400m from the site.

The above comments from Sustainable Transport have been reviewed but the

decision not to raise an objection has been sustained.

Environmental Health: No objection [based on the previous application]

The land was a former brickworks and subsequently used for landfill. The land is also north of a large garage which has been established for a number of years. As such the land has potential to be contaminated. If approved, conditions should be imposed to deal with this issue.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

QD1	Design - quality of development
QD2	Design - key principles for neighbourhoods
QD3	Design – effective and efficient use of sites
QD15	Landscape design
QD27	Protection of amenity
TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space
HO7	Car free housing
SU2	Efficiency of development in the use of energy, water and materials
SU13	Minimisation and re-use of construction industry waste

Supplementary Planning Documents:

SPD03:	Construction and demolition waste
SPD06:	Trees and development sites
SPD08:	Sustainable building design

Supplementary Planning Guidance Notes:

SPGBH4:	Parking standards
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7 CONSIDERATIONS

The key considerations in the determination of the application include the principle of development, the visual impact, the effects upon residential amenity and parking and highway implications.

The application follows the three previous refusals of permission (refs. BH2008/03312, BH2006/02419 and BH2006/00150) and comprises a similar scheme to the previous application, having no off-street parking and a pedestrian access.

An earlier application for the development of the site with two town houses was refused in 1989 (ref. 3/89/0118). The reasons given for this decision

include:

- The proposal would constitute an overdevelopment of the site in a manner which would be severely detrimental to not only the visual and residential amenities of the locality but also in particular to the amenities of the occupiers of 197 Old Shoreham Road, Portslade.
- The proposal would result in an increased use of the narrow sub-standard access which together with the unsatisfactory parking and turning facilities would be likely to lead to increased hazards and encourage parking along the A27 trunk road.

The issues of design, form and massing and how the proposed building would relate to its surroundings and the question of whether car free development is enforceable in an area without on-street parking controls should also be considered.

Principle

Clearly one of the main concerns as to whether development of this backland site is acceptable in principle is the issue of how the site can be accessed whilst at the same time providing for the transport demand generated.

The existing driveway to the side of 197 Old Shoreham Road has been in situ for some time historically, as has the nearby pedestrian crossing across Old Shoreham Road. The existing driveway is not sufficient to allow for turning of a vehicle off the highway and as such can lead to motorists reversing out back onto Old Shoreham Road.

This is the current situation, and were it not for a planning application having been submitted, this situation would be allowed to continue in perpetuity.

The council as Highway Authority has powers to require the blocking up and the cessation of the use of this access without the need to await a planning application to offer the opportunity of doing so. This power is only enforced in situations with a poor accident record over a three year period, which does not appear to be the case here.

In terms of the principle of residential development of the site, this is acceptable and would accord with policies HO3 and HO4 of the local plan, providing a reasonable mix of 1 and 2 bedroom flats and helping to increase housing stock in the city on previously developed land. However, the capacity of the site to accommodate a development of the proposed scale is discussed below.

Design and visual amenity

Policies QD1 and QD2 of the Local Plan state that new development should be of a high standard of design which would enhance the positive qualities of the local neighbourhood and take into consideration key local characteristics including the height and form of existing buildings and the layout of streets and paths and the spaces around them. Policy QD3 encourages efficient use

of urban land, permitting residential development where it can be achieved without detriment to surrounding development and the areas capacity to accommodate the proposal where this can be achieved without town cramming. This accords with central government advice in PPS3 “Housing”.

The character of existing development is mixed although within the separate uses there is uniformity. For example: the houses are two storey with pitched and hipped roofs and are semi-detached whilst the public library is a modern and unique design with flat roof and clearly legible as a public building. To the back of the site there is a motor vehicle garage comprising a range of showroom and service buildings typical of such a land use.

The layout of houses and buildings in Old Shoreham Road is reminiscent of ribbon development along the highway in that there is one layer of buildings with no obvious backland development and a sense of openness behind them, as the ground level slopes downwards to Victoria Road.

The proposed building would occupy a prominent site and be publicly visible because it would be seen across Victoria Park and from Old Shoreham Road. One of the reasons for refusal of the previous planning application was over development of the site and how the scale, bulk, form, site coverage, design and prominent park side location, would have a cramped and discordant appearance, both detrimental to visual amenity, failing to enhance the character of the local area and not achieving the standard of design reasonably expected by the local planning authority. The scheme did not accord with policies QD1, QD2, QD3 and HO4 of the Brighton & Hove Local Plan. The scheme has been amended and presents a contemporary approach in design with alternative render and facing brick sections to the elevations. Whilst a contemporary design is not objected to in principle, the proposal by reason of its bulk, scale and site coverage is not considered to represent an appropriate form of development.

In order to be acceptable, the revised proposal needs to overcome these issues.

In comparison with the previous application the overall ground area covered by the building has been reduced and the development would sit more comfortably within the plot, with landscape zones averaging some 3m in front of each elevation. However, this is not considered sufficient space around the building and the development would still have a cramped appearance. The building line, set by the western flank elevation of 197 Old Shoreham Road, is continued by the proposed development along the park. Nevertheless it is not considered appropriate to build a block of flats in this backland location with such a narrow area of surrounding private amenity space.

In summary, the revised footprint, form and massing of the development does not fully overcome earlier concerns of over development and harmful visual impact.

The close position of the building to a Sycamore tree in Victoria Park was, under the previous application, noted by the council Arboricultural Section who are of the view the tree would have to be removed, at the expense of the applicant, to make way for the development. It would be regrettable to lose this tree in order to allow the development. In the event at least five replacement trees should be provided at the expense of the applicant. The tree is one of a small group that are of value in terms of visual amenity and mark the edge of Victoria Park.

The application is not accompanied with a tree survey carried out by a qualified Arboriculturalist and no information submitted as to the impact of the development on the Sycamore tree in the park, or details of replacement tree planting. The application is thereby contrary to policies QD15 and QD16 of the Local Plan which state that proposals for new development should show that adequate consideration has been given to landscape design, including all the spaces between and around buildings, at an early stage in the design process; and applications should accurately identify existing trees, shrubs and hedgerows, seek to retain existing trees and hedgerows and wherever feasible include new tree and hedge planting in the proposal respectively.

Amenity

Policy QD27 of the Local Plans seeks to safeguard occupiers and users of existing buildings, neighbours and future occupiers of a development from loss of amenity.

In considering whether the development would have an overbearing impact or result in overshadowing of existing properties, notably 197 and 199 Old Shoreham Road, the building would be located a minimum of 14m from the rear facades of these properties and has been designed so that the gently sloping split roof gradually ascends from the height of the wall at the foot of these neighbouring properties' rear gardens. This design measure, combined with the lower ground level on which the development would be situated, will ensure neighbour amenity is not harmed. Likewise, the building has been designed so that the only first floor windows on the northern elevation serve bathrooms and can therefore be obscure glazed to preclude loss of neighbour privacy. This could be secured by condition in the event planning permission was granted.

The extra activity generated by three new dwellings in this location is not considered to be significant and would not cause undue disturbance for existing residents. The site is next to a health centre and library and near to the busy Old Shoreham Road.

Cycle and refuse storage have been identified close to the front entrance of the building and each flat would benefit from either a balcony or outdoor garden area, in accord with the requirements of policy HO5 which seeks private, useable outdoor amenity space commensurate with the scale and nature of the development.

Policy HO13 requires new dwellings to be built to Lifetime Homes standards. The development has level access from street level via a 1 in 12 gradient slope. Flat 1 would be on two levels linked by an internal staircase with the bathroom and two bedrooms on the lower level and living areas above. As proposed the staircase is insufficient width to accommodate a stair-lift. Furthermore, access to the two separate W.C. rooms would be difficult for the ambulant disabled and the main bathroom, whilst having more than 1.1m clear space in front of W.C. and sink, would not enable sideways transfer to the toilet. Notwithstanding these shortcomings, it is considered with internal alterations to the flat layout, which should not affect the external appearance of the development, the requirements of policy HO13 could be met by condition. The two 1-bed flats share an identical layout albeit the entrance to the lower level flat is by steps, or by direct access from Victoria Park but accessing the flat via the dining room sliding doors. The layout of these flats displays adequate circulation space in living areas and doorway widths meet Lifetime Homes' standards. However, the bathrooms have similar sideways transfer issues to the 2-bed maisonette.

In conclusion, it is considered the development would not have a harmful impact on amenity and future residents' living conditions would be satisfactory.

Highway and parking issues

In order to partly address previous reasons for the refusal of development on the site, the applicant has designated the scheme car-free. The intensification of the use of the existing vehicular driveway in close proximity to a Pelican crossing on the busy Old Shoreham Road would have been detrimental to highway safety. The Traffic Manager supports the blocking up of the existing driveway because its use is hazardous due to there being no room to turn a car clear of the highway and vehicles reversing back out onto the highway across the zig zag area of the pedestrian crossing is detrimental to highway safety.

Drawing no. 25546/3B shows the proposed modification to the existing access. The location of the pedestrian crossing would remain unchanged. However, the existing access would no longer be used by motorised traffic and a bollard would be erected at the end of the access next to the public footway, allowing only cyclists and pedestrians to pass through from the flat development. A section of metal guardrail of a sufficient number of mild steel bollards would be erected along the edge of the public footway and the zig zag approach to the pedestrian crossing marked out on the road. The Sustainable Transport section does not object to this proposed improvement to highway safety.

The reduction in the number of flats proposed from 4 to 3 is noted and hence the reduced demand for travel. Policies TR1 and TR19 of the Local Plan require new developments to provide for the travel demand they generate and link up with the maximum car parking standards and minimum cycle parking

levels detailed in SPGBH4: Parking standards. Policy TR7 of the Local Plan requires development to provide safe and adequate access to the highway network.

The site is not within a central area or an area of parking control (CPZ) and as such SPGBH4 would require a maximum of 4 car parking spaces, including one for visitors. The development would also result in the loss of off street parking for 197 Old Shoreham Road (two units), thus overall there would be a maximum shortfall of 6 car parking spaces.

Although the applicant states the development would be designated car free and would provide 4 secure and covered cycle parking spaces in accordance with the minimum requirements of SPGBH4, in terms of policy HO7 the car free status can only be secured by the planning authority where there are complimentary on-street parking controls; and where it can be demonstrated that the proposed development will remain genuinely car-free over the long term.

The location of the development cannot satisfy these two criteria and hence increased on-street parking on surrounding residential streets as a result of the proposal must be taken into consideration.

In respect of the appeal on application BH2006/02419 a Planning Inspector dismissed the appeal partly due to inadequate on-site parking provision. Nearby streets, particularly the bottom end of Foredown Drive are already heavily parked. The Sustainable Transport Manager does not agree with the Inspectors previous decision and is of the view local residential streets within a 400m radius of the site have adequate capacity to accommodate the 6 cars that could be generated by the development. Whilst this is duly noted, this distance is considered too far for people to walk with shopping or heavy goods, the elderly and those with mobility difficulties.

Old Shoreham Road is a busy, undivided four-lane road and is painted with double yellow lines. Illegal parking on this road would be hazardous and could inhibit the smooth flow of traffic.

There is no record of any reported accidents in the vicinity in the recent past. Without such evidence it may be considered difficult to justify allowing a new development with insufficient parking provision - that could lead to dangerous parking on Old Shoreham Road or add to the congestion in nearby streets - for the sake of removing an existing access that has potential to be dangerous depending on the responsibility of the drivers using it.

Although some highway benefit may accrue it is considered that the proposal does not comply with the aims and objectives of policies TR1, TR7, TR19 or HO7 of the Local Plan and should be resisted. This approach would be consistent with the previous appeal decision, which is a material consideration.

Sustainability

Policy SU2 of the local plan requires new development to be efficient in the use of energy, materials and water. SPD08: Sustainable Building Design, adopted since the previous application, requires the submission of a sustainability checklist and achievement of Code Level 3 of the Code for Sustainable Homes.

The sustainability checklist submitted with the application scores 62% (Good) and includes measures to achieve Level 3 of the Code for Sustainable Homes and reduce energy consumption and emissions as well as making the development future proof by incorporating features that would facilitate the installation of solar heating and energy generating technologies. The development is near to bus stops and provides for alternative travel methods such as cycling. The building has south and west facing living areas and private amenity spaces to maximise solar gain.

Waste Minimisation and Sustainable Building Design

The application is accompanied by a brief waste minimisation statement, the precise details of which could be secured by applying a condition. The statement clearly lays out the applicant's intentions to re-use and recycle construction waste where possible. However, more details as to contractors and end users should be required.

Conclusion:

The revised application does not sufficiently address the issues which led to the refusal of the previous application and for this reason, the application is recommended for refusal.

8 EQUALITIES IMPLICATIONS

Any development should meet Lifetime Homes' standards.

BH2009/02428 Land rear of 197 Old Shoreham Road



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